

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

<b>DePuy Mitek, Inc.</b>	)	
<b>a Massachusetts Corporation</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil No. 04-12457 PBS</b>
	)	
<b>Arthrex, Inc.</b>	)	
<b>a Delaware Corporation and</b>	)	
	)	
<b>Pearsalls Ltd.</b>	)	
<b>a Private Limited Company</b>	)	
<b>of the United Kingdom</b>	)	
<b>Defendants.</b>		

**Joint Pretrial Memorandum**

Plaintiff, DePuy Mitek, Inc. (“Mitek”) and Defendants, Arthrex, Inc. (“Arthrex”) and Pearsalls, Ltd. (“Pearsalls”) (collectively, “Arthrex”) jointly submit this final pretrial memorandum pursuant to the Court’s June 19, 2007 Order and L.R. 16.5(d).

**I. Scope of Trial**

The parties understand that the scheduled August 6, 2007 trial is limited to the issue of whether Defendants infringe U.S. Patent No. 5,314,446 (“the 446 Patent”). Consequently, this Joint Pretrial Memorandum is limited to the infringement issue. The parties understand that, if necessary, any and all remaining issues will be tried at a later date to be determined by the Court.

**II. SUMMARY OF EVIDENCE**

The parties have provided below their respective summary of the evidence to be presented at trial. Neither party has commented on the other’s summary of the evidence.

**A. Mitek’s Summary**

Mitek is a company in Raynham, Massachusetts, and Defendants are Arthrex, a company

in Naples, Florida, and Pearsalls, Ltd., a UK company that manufactures the FiberWire suture for Arthrex. Mitek and Arthrex sell products, including sutures, used in orthopedic surgery. Sutures are a thread-like material that doctors and surgeons use for wound, tissue, tendon, or muscle repair. Sutures can be sold as “free strands” (*i.e.*, suture alone) or attached to a needle or anchor. Arthrex sells Fiberwire sutures in each of these configurations. Pearsalls exclusively manufactures and imports FiberWire bulk suture into the United States for Arthrex. Pearsalls and Arthrex have worked together extensively as partners to design, develop, manufacture, and sell the accused FiberWire products.

Mitek is the assignee of the 446 Patent. Mitek claims that Arthrex’s and Pearsalls’ FiberWire sutures infringe claims 1, 2, 8, 9, and 12 of Mitek’s 446 Patent.

Mitek’s 446 Patent claims, *inter alia*, a braided suture of a specific construction. The braided suture is formed from at least two discrete sets of yarns, with each yarn formed of multiple filaments of a fiber-forming material. The first set of yarns is selected from the materials “PTFE, FEP, PFA, PVDF, PETFE, PP, and PE,” and the second set of yarns is selected from the materials “PET, nylon, and aramid.” The first and second sets of yarns are braided so that at least one yarn from the first set of yarns is in direct intertwining contact with at least one yarn from the second set of yarns.

Claim 1 of Mitek’s 446 also includes the transition language “consisting essentially of.” This language means that the claimed suture may contain additional components not specifically listed in the claim, providing the additional components do not “materially affect the basic and novel characteristics of the invention.”

There is no dispute about the structure of Arthrex’s FiberWire sutures. FiberWire sutures generally contain a core of ultra high molecular weight polyethylene (“UHMW PE”) surrounded

by a sheath or cover formed by braiding yarns of UHMW PE and yarns of polyethylene terephthalate (“PET”). It is undisputed that FiberWire’s UHMW PE and PET yarns are braided in direct intertwining contact. And while FiberWire sutures are available in many different sizes, Arthrex has admitted that different FiberWire sizes are braided in the same manner. Thus, it is undisputed that FiberWire is a braided suture made from yarns of UHMW PE and yarns of PET, and that those yarns are braided in direct intertwining contact, as required by the claims.

The only dispute between the parties is whether the silicone surface coating on FiberWire “materially affects the novel and basic characteristics” of the invention such that there is no infringement.

Mitek will prove that FiberWire literally infringes Mitek’s 446 Patent under 35 U.S.C. §271(a). Mitek will prove that the silicone surface coating on FiberWire does not “materially affect the basic and novel characteristics” of the claimed suture. The Court has ruled that the novel and basic properties of the patented invention are (1) a surgical suture (2) composed of two dissimilar yarns from the lists in Claim One, (3) wherein at least one yarn from the first set is in direct intertwining contact with the yarn from the second set, (4) so as to improve pliability and handleability without significantly sacrificing the physical properties of the constituent elements of the suture.

Mitek will present evidence showing that the coating does not affect the novel and basic characteristics because the coating does not materially affect: that FiberWire (1) is a surgical suture; (2) composed of two dissimilar yarns as recited in claim 1; (3) wherein at least one yarn from the first set is in direct intertwining contact with one yarn from the second set; and (4) so as to improve pliability and handleability without significantly sacrificing the physical properties of the constituent elements of the suture.

Mitek will present undisputed evidence showing that the silicone coating on FiberWire is merely a surface coating that does not affect the physical properties of the constituent elements of the suture – the UHMW PE fibers and PET fibers – and that any effect is immaterial. Mitek will present undisputed evidence from its expert Dr. Brookstein showing that the surface coating remains on the surface of the suture and does not permeate into the braid, does not affect the mechanical blending of the UHMW PE and PET fibers, and the individual UHMW PE and PET fibers and yarns retain their morphology.

Mitek will also present evidence from Pearsalls' witnesses showing that the amount of coating is so small that it is not capable of being measured. Mitek will also present evidence from Arthrex's expert Dr. Burks showing that to the extent there is any difference between a coated and uncoated FiberWire suture, the difference is subtle.

Mitek will also prove that Pearsalls has contributed to Arthrex's infringement of Mitek's 446 Patent under 35 U.S.C. §271(c). Mitek will present evidence of Arthrex's and Pearsalls' long-standing relationship and Pearsalls involvement in developing the suture that Arthrex sells as FiberWire. Mitek will present evidence that Pearsalls manufactures bulk sutures for Arthrex, imports those sutures into the United States, and sells them to RK Manufacturing in the United States which further packages the sutures for commercial sale by Arthrex. Mitek will show that the sutures that Pearsalls imports into the United States are used only for making FiberWire sutures for commercial sale and are not a staple article of commerce suitable for a substantial noninfringing use.

#### **B. Defendants' Summary**

Defendant will offer evidence that Arthrex's FiberWire suture is a high-strength suture used for applications requiring high-strength, such as in the shoulder, etc. Defendants will also show that FiberWire was the first high-strength suture to be introduced in the marketplace and

that FiberWire's high-strength is due to ultra high molecular weight polyethylene ("UHMWPE"). The UHMWPE is braided together with a polyester known as PET. Defendants will show that the '446 patent does not mention a high-strength suture as being one of the goals of the invention, but rather it recognizes that some suture strength will be sacrificed and that there is a tradeoff between suture strength on the one hand and pliability or handleability on the other. Defendants will present evidence that the '446 patent issued with Ethicon as the assignee.

When the transitional phrase "consisting essentially of" is recited in a claim, such as it is recited in the claims of the '446 patent, an accused product avoids infringement if it contains an ingredient not recited in the claim and where that added ingredient materially affects the basic and novel characteristics of the invention. It is undisputed that FiberWire suture contains a coating and that a coating is not recited in the claims of the '446 patent. Defendants will present evidence through various witnesses that the coating on FiberWire, just as coatings are generally known to do in the suture art, materially affects the basic and novel characteristics of the '446 patent, as construed by the Court, and therefore, FiberWire does not infringe the claims of the '446 patent.

For example, Defendants will show that it is universally known that coating is added to multifilament suture to materially aid in knot run-down, pliability and other handleability properties. These results are also achieved by adding the coating to FiberWire, as shown by the reasons that coating is added to FiberWire, empirical tests and Arthrex's interaction with customers.

It is undisputed that FiberWire sutures are tipped. Defendants will also show that the adhesive added to the ends of FiberWire during the tipping process stiffens the suture, thereby

improving the suture's handleability by, for example, facilitating attachment to instruments. Therefore, FiberWire does not infringe the '446 patent for this additional reason.

Defendants will also show that the '446 patent describes that PE is added to the suture to improve its handleability and pliability and that such materials are too weak for most suture applications and that PET is added for increased strength. Defendants will show that the materials in FiberWire are included for the opposite reasons and therefore it does not infringe under the reverse doctrine of equivalents.

Defendants will also show that the products manufactured by Pearsalls are also capable of other non-infringing uses, and thus, they Pearsalls does not contribute to any alleged infringement.

### **III. STIPULATIONS AND FACTS ESTABLISHED BY THE PLEADINGS**

#### **A. Stipulated Issues of Fact**

The parties' stipulated facts are attached hereto as Exhibit A.

### **IV. CONTESTED ISSUES OF FACT**

#### **A. Plaintiff's Contested Issues of Fact**

1. Whether the NuSil surface coating on the FiberWire sutures materially affects the basic and novel properties of the invention.
2. Whether the suture that Pearsalls manufactures under an exclusive agreement with Arthrex knowing it to be specifically used for making commercial FiberWire sutures has any substantial noninfringing use.

#### **B. Defendants' Contested Issues of Fact**

1. Whether the coating added to FiberWire suture materially affects the basic and novel properties of the invention, as defined by the Court.
2. Whether DePuy Mitek owns the '446 patent.

3. Whether the adhesive added to the ends of FiberWire sutures during the tipping process materially affects the basic and novel properties of the invention, as defined by the Court.

4. Whether ultra-high molecular weight polyethylene is added to FiberWire for the purpose of adding strength.

5. Whether PE is described in the '446 patent as being part of a group of materials that are added to the suture for improving its handleability aspects.

6. Whether PET is added to FiberWire for the purpose of improving its handleability aspects.

7. Whether the '446 patent describes PET as being part of a group that adds strength to the suture.

8. Whether braids of the materials used in FiberWire are suitable for other uses.

## **V. JURISDICTION**

### **A. Subject Matter Jurisdiction**

The parties do not dispute that this Court has subject matter jurisdiction over Mitek's claims for infringement of claims 1, 2, 8, 9, and 12 the Hunter 446 Patent. This case arises under the patent laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over the subject matter of these claims under 28 U.S.C. §§ 1331 and 1338(a).

Arthrex has brought a declaratory judgment counterclaim seeking a declaration of, among other things, non-infringement of the 446 Patent. Mitek denies that this Court has jurisdiction over Arthrex's counterclaim for non-infringement of nonasserted claims 3-7 and 10-11. Because Mitek had not asserted those claims against Arthrex, there is no declaratory judgment jurisdiction over those claims.

**B. Personal Jurisdiction**

The parties do not dispute that this Court has personal jurisdiction over the parties.

**VI. QUESTIONS RAISED BY PENDING MOTIONS**

The Court is presently considering the following motions *in limine* filed by Mitek:

- (1) Mitek's Motion *In Limine* (No. 1) and Memorandum in Support to Exclude Evidence Regarding CETR Testing (D.I. 117 and D.I. 118);
- (2) Mitek's Motion *In Limine* (No. 2) and Memorandum in Support to Preclude Arthrex from Presenting Evidence that Mitek Performed Pre-Suit Testing on Coated vs. Uncoated FiberWire (D.I. 127 and D.I. 128);
- (3) Mitek's Motion *In Limine* (No. 3) and Memorandum in Support to Preclude Arthrex from Relying on U.S. Patents 4,074,713 and 4,074,366 (D.I. 120 and D.I. 121);
- (4) Mitek's Motion *In Limine* (No. 4) and Memorandum in Support to Limit The Testimony of Arthrex's Patent Law Expert, Mr. Witherspoon (D.I. 124 and D.I. 126);
- (5) Mitek's Motion *In Limine* (No. 5) and Memorandum in Support to Preclude Arthrex and Pearsalls From Making Irrelevant and Prejudicial Remarks About Mitek (D.I. 129 and D.I. 130); and
- (6) Mitek's Emergency Motion and Memorandum in Support to Prevent Defendants From Presenting Witnesses at Trial Who Were Not Disclosed as Trial Witnesses During Fact or Expert Discovery (D.I. 113 and D.I. 114).

The Court is also is presently considering the following motions *in limine* filed by Arthrex and Pearsalls:

- (1) Defendants Arthrex, Inc.'s and Pearsalls Ltd.'s Motion *in Limine* To Preclude Dr. Brookstein From Testifying as an Expert at Trial Regarding the Effect of Coating on FiberWire's Properties or Performance (D.I. 123); and



(2) Defendants Arthrex, Inc.'s and Pearsalls Ltd.'s Motion *in Limine* To Preclude DePuy Mitek from Arguing at Trial That Coating's Effect on FiberWire is Minimal Compared to the Effect of Combining Two Different Materials (D.I. 119).

## **VII. ISSUES OF LAW**

Determining whether a patent has been literally infringed involves two steps: (1) claim construction, followed by (2) a determination whether the properly construed claim encompasses the accused structure. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995)(*en banc*). Claim construction is a question of law within the province of the Court. *Id.* at 979. This Court has already construed the disputed claim terms -- "PE" and "consisting essentially of." The Court has also determined as a matter of law the novel and basic characteristics of the invention.

To establish infringement Mitek needs to prove that each claim element is literally present in the accused product. *Dawn Equip. Co. v. Kentucky Farms Inc.*, 140 F.3d 1009, 1014 (Fed. Cir. 1998). The asserted claims also include the transitional phrase "consisting essentially of." The parties discuss their legal interpretation of this phrase separately below. Defendants' section also includes a discussion of the reverse doctrine of equivalents. Mitek does not believe that issue should be included.

To establish contributory infringement by Pearsalls, Mitek needs to prove that

- (1) Pearsalls sold or supplied;
- (2) a material component of the patented invention that is not a staple article of commerce capable of substantial non-infringing use;
- (3) with knowledge that the component was especially made or adopted for use in an infringing product.

**A. Plaintiff's Issues of Law**

The transitional phrase “consisting essentially of” has been interpreted by the Federal Circuit to denote a partially open term, which permits the inclusion of additional elements in the claim as long as those elements do not materially affect the basic and novel properties of the invention. *AK Steel Corp. v. Sollac*, 344 F.3d 1234, 1239 (Fed. Cir. 2003). Thus a product can infringe a claim if it contains, in addition to the recited claim elements, immaterial elements not recited by the claim that do not materially affect the basic and novel properties of the invention. *W.E. HallCo., Inc. v. Atlanta Corrugating, LLC*, 370 F.3d 1343, 1353 (Fed. Cir. 2004).

The issue to be decided is whether the surface coating on Arthrex's FiberWire suture materially affects the basic and novel properties of the invention as defined by the Court, and therefore, avoids infringement of Mitek's 446 Patent.

Mitek is not addressing Arthrex's defenses of the reverse doctrine of equivalents and tipping since it is unclear whether these issues are still part of the case. To the extent these issues remain in the case, Mitek intends to present evidence that these defenses have no merit, including the evidence set forth in its summary judgment briefing (D.I. 106).

**B. Defendants' Issues of Law**

The claims of the '446 patent use a phrase “consisting essentially of” that has special legal meaning. Here it means that an accused product does not infringe such a claim (i.e., one that includes the phrase “consisting essentially of”) if an added ingredient that is not listed in the claims materially affects the basic and novel properties of the invention. An effect on the basic and novel properties of the invention is “material” if the effect is of importance or of consequence to those of ordinary skill in the art. *AFG Indus., Inc. v. Cardinal IG Co.*, 239 F.3d 1239, 1245 (Fed. Cir. 2001). A significant issue in this case is whether the coating on FiberWire materially affects the basic and novel properties of the invention.

The “basic and novel properties” of the invention described in the 446 Patent are: (1) a surgical suture, (2) composed of two dissimilar yarns from the lists in Claim One, (3) where at least one yarn from the first set is in direct intertwining contact with the yarn from the second set, (4) so as to improve pliability and handleability without significantly sacrificing the physical properties of the constituent elements of the suture.

In determining whether the coating added to FiberWire materially affects the basic and novel properties of the invention, it does not matter whether the coating has an improving effect or a worsening effect on those properties. *PPG Indus. v. Guardian Indus. Corp.*, 156 F.3d 1351, 1354 (Fed. Cir. 1998).

The addition of coating to FiberWire may materially affect the basic and novel properties of the Hunter 446 Patent even though most commercial sutures contain a coating. This is due to the legal effect of the “consisting essentially of” language included in the Hunter 446 Patent claims. *AFG Indus., Inc. v. Cardinal IG Comp., Inc.*, 239 F.3d 1239, 1252 (Fed. Cir. 2001).

In determining whether the coating on FiberWire materially affects the basic and novel properties of the 446 Patent, it is not necessary that the coating eliminate other limitations of the claim, such as whether the coating changes the nature of the other materials in the suture or prevents the suture from being braided in “direct intertwining contact.” *PPG Indus. v. Guardian Indus. Corp.*, 156 F.3d 1351, 1354 (Fed. Cir. 1998).

Under the reverse doctrine of equivalents, there is no infringement where an accused product is so far changed in principle from a patented article, but nevertheless falls within the literal words of the claim. Here, defendants claim that the FiberWire suture products operate in a manner that is the opposite of that described in the 446 Patent, and therefore, even if they fall within the literal words of the claims of the Hunter 446 Patent, there is no infringement. *Tate*

*Access Floors, Inc. v. Interface Architectural Resources, Inc.*, 279 F.2d 1357, 1368 (Fed. Cir. 2002) (citing *Graver Tank & Manufacturing Co. v. Linde Air Prods., Co.*, 339 U.S. 605, 609 (1950)).

#### **VIII. AMENDMENTS TO THE PLEADINGS**

The parties do not anticipate further amending the pleadings.

#### **IX. ADDITIONAL MATTERS TO AID IN DISPOSITION OF ACTION**

##### **A. Evidentiary Issues**

The parties anticipate that they will be able to stipulate to the authenticity of their respective exhibits.

#### **X. LENGTH OF TRIAL**

The Court has scheduled an infringement trial to begin on August 6, 2007. The Court at the June 19, 2007 summary judgment hearing indicated that the trial would be a week (6/19/07 Tr. at 25-26).

#### **XI. WITNESS LISTS AND DEPOSITION DESIGNATIONS**

##### **A. Witness Lists**

##### **1. Mitek's Witness List**

The witnesses Mitek presently intends to present at trial through live testimony and by deposition are identified below. Mitek reserves the right to call additional witnesses in rebuttal or in response to any positions taken by Arthrex at trial that were not previously disclosed to Mitek. Mitek also reserves the right to call any live witness listed on Arthrex's list.

##### **a) Mitek's live witnesses**

**David Brookstein** (expert) (live testimony)  
Dean and Professor of Engineering  
Philadelphia University  
Philadelphia, PA 19144

**Mathew Hermes** (expert) (live testimony)  
76 Meridian Road  
Beaufort, SC 29907

**Mark Steckel** (live testimony)  
Boston Scientific  
24 Prime Park Way  
Natick, MA 01760

**Neil Weber** (live testimony)  
DePuy Mitek  
249 Vanderbilt Avenue  
Norwood, MA 02062

**b) Mitek's witnesses to be presented by deposition**

**Donald Grafton** (by deposition)  
4218 Skyway Drive  
Naples, Florida 34112-1902.

**Dr. Robert Burks** (by deposition)  
590 Wakara Way  
Salt Lake City, Utah 84108

**D. Lawson Lyon** (by deposition)  
Little Burrow Farm  
Broadclyst, Exeter, Devon,  
EXS 3JA, United Kingdom

**Brian Hallet** (by deposition)  
64, Priorswood Road,  
Taunton, Somerset, TA2 7PT,  
United Kingdom

**Richard Ponton Jr.** (by deposition)  
288 Brick School Road  
Warren, Connecticut

**Kevin Griefff** (by deposition)  
1370 Creekside-Boulevard  
Naples, Florida 34108

**Peter Dreyfuss** (by deposition)  
2417 Kings Lake Boulevard  
Naples, Florida

**c) Witnesses Mitek may call if the need arises**

**Dennis Jamiolkowski** (live testimony)

Ethicon  
Route 22 West  
Somerville, NJ 08876

**d) Defendants' Objections to Mitek's Witness List:**

Dr. Hermes: Defendants object to Dr. Hermes' trial testimony to the extent he intends to testify beyond the scope of the opinions expressed in paragraphs 57-61 in his rebuttal expert report dated April 13, 2006.

**2. Arthrex's Witness List**

**a) Arthrex's live witnesses**

Arthrex's list of witnesses likely to be called at trial are:

- 1) D. Lawson Lyon  
Managing Director, Pearsalls, Ltd.  
Tancred Street  
Taunton, England UK  
Tel: 0044-1823-253-198
- 2) Ashley Willobee (formerly Ashley Holloway)  
Arthrex, Inc.  
1370 Creekside Blvd  
Naples, FL 34109  
(239) 643-5553
- 3) Tara Shaneville  
Arthrex, Inc.  
1370 Creekside Blvd  
Naples, FL 34109  
(239) 643-5553
- 4) William Benavitz  
Arthrex, Inc.  
1370 Creekside Blvd  
Naples, FL 34109  
(239) 643-5553

- 5) Dr. Debi Prasad Mukherjee  
Louisiana State University  
1501 Kings Highway  
Shreveport, LA 71130  
(318) 675-6187
- 6) Dr. Norm Gitis  
President, CETR  
1715 Dell Ave, Campbell, CA 95008, USA  
1-408-376-4041
- 7) John Witherspoon  
815 Connecticut Avenue, N.W., Suite 500  
Washington, D.C. 20006-4004  
tel 202-835-3700

Arthrex's list of witnesses that may be called at trial if the need arises are:

- 8) Robert Sluss  
Arthrex, Inc.  
1370 Creekside Blvd  
Naples, FL 34109  
(239) 643-5553
- 9) John Schmieding  
Arthrex, Inc.  
1370 Creekside Blvd  
Naples, FL 34109  
(239) 643-5553
- 10) Peter Dreyfuss  
Arthrex, Inc.  
1370 Creekside Blvd  
Naples, FL 34109  
(239) 643-5553
- 11) Richard Ponton  
R.K. MANUFACTURING  
41-A Eagle Road, Danbury, CT 06810  
(203) 797-8700
- 12) Brian Hallet  
Pearsalls, Ltd.  
Tancred Street  
Taunton, England UK  
Tel: 0044-1823-253-198

13) Lee Lewis  
Pearsalls, Ltd.  
Tancred Street  
Taunton, England UK  
Tel: 0044-1823-253-198

14) Scott Giraud, Sterile Systems, Div. of Medtronic, 520 Watson St., S.W., Grand Rapids, MI 49504, (800) 875-5560.

The parties have agreed to a stipulation relating to his testimony based on Arthrex's representation that if it called at trial Mr. Giraud of Sterile Systems would seek only testify about the facts as set forth below:

Prior to Dr. Gitis conducting the tests described in his report dated March 23, 2006, Dr. Gitis sent, via Fedex, two envelopes containing U.S. No. 2 FiberWire suture to Sterile Systems, in Grand Rapids, Michigan. One of the envelopes Dr. Gitis sent to Sterile Systems contained a plastic bag of suture and was labeled "coated." The other envelope Dr. Gitis sent to Sterile Systems contained a plastic bag of suture and was labeled "uncoated." The sutures were sterilized in the envelopes at Sterile Systems. The two envelopes of suture were then returned to Dr. Gitis at CETR.

This is reflected in Joint Proposed Stipulated Fact #51.

15) Dr. Stephen Burkhardt, Arthrex Consulting Surgeon, 150 E Sonterra Boulevard, Suite 300, San Antonio, TX 78258, Tel.: (210) 489-7220.

**b) Arthrex's witnesses to be presented by deposition**

Note: Several other witnesses may be called by deposition (including Donald Grafton, Richard Skula, Richard Ponton, Hal Brent Woodrow, Shelby Cook Kornbluth, Dennis D.



Jamiolkowski, Gary B. McAlister, Neil D. Weber, Dr. Mark G. Steckel, Katherine Seppa, Ilya Koyfman and Alistair Simpson). Dr. Burks will also be called by deposition.<sup>1</sup>

**c) Mitek's objections to Arthrex's witnesses**

Mitek objects to Arthrex's calling of Mr. Benavitz and Dr. Burkhart for reasons stated in Mitek's Emergency Motion and Memorandum in Support to Prevent Defendants From Presenting Witnesses at Trial Who Were Not Disclosed as Trial Witnesses During Fact or Expert Discovery (D.I. 113 and D.I. 114).

Mitek also objects to Arthrex's deposition testimony to the extent the deponents do not meet the requirements set forth in Federal Rule of Civil Procedure 32.

**B. Deposition Designations**

**1. Mitek's Deposition Designations**

Mitek's deposition designations in chart form are attached hereto as Exhibit B. Defendants' objections are also presented in the same chart. The highlighted transcripts are being provided in a separate binder which will be filed on July 24, 2007. Mitek's deposition designations are highlighted in yellow, Arthrex's counter-designations are highlighted in orange, and Mitek's counter-counter designations are highlighted in green. Mitek reserves the right to designate the deposition testimony of additional witnesses who are presently on Arthrex's "live" witness list should it turn out that certain witnesses are unavailable at the time of trial, and to designate the deposition testimony of witnesses currently on its own "live" witness list, if that witness becomes unavailable due to death or incapacity.

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<sup>1</sup> Dr. Burks is unavailable for trial for medical reasons. The parties have agreed that his expert report and selected portions of his deposition can be used instead. Mitek advised that there are certain portions of the report that contain hearsay, and to which it may object.

## **2. Arthrex's Deposition Designations**

Defendants' deposition designations in chart form are attached hereto as Exhibit C. Mitek's objections are presented in the same chart. The highlighted transcripts are being provided in a separate binder which will be filed on July 24, 2007. Defendants' deposition designations are highlighted in yellow, Mitek's counter-designations are highlighted in orange, and Defendants' counter-counter designations are highlighted in green. Defendants reserve the right to designate the deposition testimony of additional witnesses who are presently on Mitek's "live" witness list should it turn out that certain witnesses are unavailable at the time of trial, and to designate the deposition testimony of witnesses currently on its own "live" witness list, if that witness becomes unavailable due to death or incapacity.

## **XII. EXHIBITS**

Mitek's exhibit list is attached hereto as Exhibit D. Mitek reserves the right to amend this list pending receipt of Arthrex's and Pearsalls' exhibit list and evidence that Arthrex/Pearsalls may present at trial. Mitek reserves the right to use any document listed in Arthrex's and/or Pearsalls' Exhibit List. The list also includes Defendants' objections.

Defendants' Exhibit List is attached hereto as Exhibit E. Defendants reserve the right to amend this list pending receipt of Mitek's exhibit list and evidence that Mitek may present at trial. Defendants reserve the right to use any document listed in Mitek's Exhibit List. The list also includes Mitek's objections.

## **XIII. OBJECTIONS TO EVIDENCE**

Mitek's objections to Defendants' deposition designations and exhibits are included on the charts attached hereto as Exhibits C and E, respectively.

Defendants' objections to Mitek's deposition designations and exhibits are included on the charts attached hereto as Exhibits B and D, respectively.

Respectfully submitted,

Counsel for Plaintiff

By: /s/ Erich M. Falke

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Dated: July 23, 2007

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By: /s/ Salvatore P. Tamburo

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Dated: July 23, 2007

# EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

<b>DePuy Mitek, Inc.</b>	)	
<b>a Massachusetts Corporation</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil No. 04-12457 PBS</b>
	)	
<b>Arthrex, Inc.</b>	)	
<b>a Delaware Corporation and</b>	)	
	)	
<b>Pearsalls Ltd.</b>	)	
<b>a Private Limited Company</b>	)	
<b>of the United Kingdom</b>	)	
<b>Defendants.</b>		

**JOINT PROPOSED STIPULATED FACTS**

**Stipulated Fact #1**

Arthrex, Inc. received actual notice of U.S. Patent No. 5,134,446 on December 1, 2003 (J. Schmeiding 1/5/06 Dep. at 64:12-15).

**Stipulated Fact #2**

FiberWire and TigerWire are surgical sutures (FiberWire IFU)(Undisputed Mitek Fact #11; Arthrex Response to Mitek Request to Admit No. 3).

**Stipulated Fact #3**

RK Manufacturing has sold sterilized FiberWire and TigerWire to Arthrex, Inc. within the United States (Grieff Dep. at 37:23-38:8).

**Stipulated Fact #4**

Arthrex, Inc. sells FiberWire and TigerWire in the United States (ARM 3355)(Undisputed Mitek Fact #51).

**Stipulated Fact #5**

Pearsalls manufactures the braided products that are further processed and ultimately sold as FiberWire and TigerWire sutures-(Grieff Dep. at 12:2-11; 12:18-23; 16:24-17:3; 17:9-12).

**Stipulated Fact #6**

Pearsalls has imported into the United States unsterilized braided products that are further processed and-ultimately sold as FiberWire and TigerWire sutures (Grieff Dep. at 20:10-22).

**Stipulated Fact #7**

Pearsalls has sold unsterilized braided products to R.K. Manufacturing which are further processed and ultimately sold as FiberWire and TigerWire sutures and suture products (Grieff Dep. at 20:10-22).

**Stipulated Fact #8**

Arthrex, Inc. sells FiberWire and TigerWire sutures attached to a needle (DMI Ex. 5 at ARM 001469).

**Stipulated Fact #9**

Arthrex's FiberWire and TigerWire suture products include at least the products having the following Arthrex catalog product codes: AR-7200, AR-7201, AR-7202, AR-7203, AR-7204, AR-7205, AR-7205T, AR-7207, AR-7209, AR-7209SN, AR-7209T, AR-7210, AR-7211, AR-7219, AR-7220, AR-7221, AR-7222, AR-7223, AR-7225, AR-7227-01, AR-7227-02, AR-7228, AR-7229-12, AR-7229-20, AR-7230-01, AR-7230-02, AR-7232-01, AR-7232-02, AR-7232-03, AR-7237, AR-7250, AR-7251, AR-1320BNF, AR-1322BNF, AR-1322-75SF, AR-1322-752SNF, AR-1915SNF, AR-1920SNF, AR-1322SX, AR-1322SXF, AR-1324B, AR-1324BF, AR-1324BF-2, AR-1324BNF, AR-1324HF, AR-1324SF, AR-1934BF, AR-1934BF-2, AR-1934BFT, AR-1934BFX, AR-1934BNF, AR-1934BLF, AR-1915SF, AR-1920BF, AR-1920BF-37, AR-1920BFT, AR-1920BN, AR-1920BNF, AR-1920BNP, AR-1920BT, AR-1920SF, AR-1920SFT, AR-1925BF, AR-1925BFSP, AR-1925BNF, AR-1925BNP, AR-1925SF, AR-1927-BF, AR-1927BNF, AR-1928SF, AR-1928SF-2, AR-1928SNF, AR-1928SNF-2, AR-2225S, and AR-2226S (DMI Ex. 101)(Undisputed Mitek Fact #26).

**Stipulated Fact #10**

Arthrex's sells the following FiberWire and TigerWire suture product codes within the United States: AR-7200, AR-7201, AR-7202, AR-7203, AR-7204, AR-7205, AR-7205T, AR-7207, AR-7209, AR-7209SN, AR-7209T, AR-7210, AR-7211, AR-7219, AR-7220, AR-7221, AR-7222, AR-7223, AR-7225, AR-7227-01, AR-7227-02, AR-7228, AR-7229-12, AR-7229-20, AR-7230-01, AR-7230-02, AR-7232-01, AR-7232-02, AR-7232-03, AR-7237, AR-7250, AR-7251, AR-1320BNF, AR-1322BNF, AR-1322-75SF, AR-1322-752SNF, AR-1915SNF, AR-1920SNF, AR-1322SX, AR-1322SXF, AR-1324B, AR-1324BF, AR-1324BF-2, AR-1324BNF, AR-1324HF, AR-1324SF, AR-1934BF, AR-1934BF-2, AR-1934BFT, AR-1934BFX, AR-1934BNF, AR-1934BLF, AR-1915SF, AR-1920BF, AR-1920BF-37, AR-1920BFT, AR-1920BN, AR-1920BNF, AR-1920BNP, AR-1920BT, AR-1920SF, AR-1920SFT, AR-1925BF, AR-1925BFSP, AR-1925BNF, AR-1925BNP, AR-1925SF, AR-1927-BF, AR-1927BNF, AR-1928SF, AR-1928SF-2, AR-1928SNF, AR-1928SNF-2, AR-2225S, and AR-2226S (ARM 3355).

**Stipulated Fact #11**

FiberWire sutures and TigerWire sutures sold by Arthrex are sterilized (Arthrex Response to Mitek's Request to Admit No. 3)(DMI Ex. 3 at 13-1).

**Stipulated Fact #12**

The cover in FiberWire suture is constructed of ultra high molecular weight polyethylene (UHMWPE) and polyethylene terephthalate (PET) (Arthrex Response to Mitek's Request to Admit No. 9).

**Stipulated Fact #13**

FiberWire includes a heterogeneous braid composed of a first and second set of continuous and discrete yarns (Mukherjee Dep. at 362:1-4)(Undisputed Mitek Fact #13).

**Stipulated Fact #14**

FiberWire includes a set of PET yarns made up of a plurality of PET filaments (Dreyfuss Dep. at 64:14-17).

**Stipulated Fact #15**

Each FiberWire suture product has a set of yarns made of PET (*id.*)(Undisputed Mitek Fact #49).

**Stipulated Fact #16**

Each yarn of PET included in FiberWire is composed of a plurality of filaments (Mukherjee Dep. at 363:7-16)(Undisputed Mitek Fact #46).

**Stipulated Fact #17**

FiberWire includes a set of UHMW PE yarns made up of a plurality of UHMW PE filaments (Dreyfuss Dep. at 50:21-51:1)

**Stipulated Fact #18**

In FiberWire, at least one yarn of ultra high molecular weight PE is in direct intertwining contact with a PET yarn (Dreyfuss Dep. at 50:21-51:1).

**Stipulated Fact #19**

FiberWire includes a heterogeneous sheath braid composed of discrete yarns in a sterilized braided construction (Mukherjee Dep. at 362:5-8)(Undisputed Mitek Fact #13).

**Stipulated Fact #20**

The polyethylene terephthalate yarns in FiberWire and TigerWire are continuous and discrete (*id.* at 362:1-4)(Undisputed Mitek Fact #15).

**Stipulated Fact #21**

The ultra high molecular weight polyethylene yarns in FiberWire and Tiger Wire are continuous and discrete (*id.*)

**Stipulated Fact #22**

The PET used in Arthrex's FiberWire sutures is in the form of yarn, and that PET yarn is made up of several twisted monofilaments of PET (Dreyfuss 9/16/05 Dep. at 64:14-17)(Undisputed Mitek Fact #17).



**Stipulated Fact #23**

No. 2 FiberWire suture, No. 5 FiberWire, No. 0 FiberWire suture, the No. 2-0 FiberWire suture, and the 3-0 FiberWire suture are braided using the same process (Dreyfuss 9/16/05 Dep. at 38:20-24)(Undisputed Mitek Fact #23).

**Stipulated Fact #24**

Arthrex's FiberWire sutures have a core except for 4-0 FiberWire (DMI Ex. 318)(Undisputed Mitek Fact #47).

**Stipulated Fact #25**

Notwithstanding the color of the yarns, TigerWire's yarns are identical to FiberWire's yarn with the exception that one PET yarn is replaced by one nylon yarn (DMI Ex. 318)(Undisputed Mitek Fact #9).

**Stipulated Fact 26**

The addition of nylon to TigerWire does not materially affect the basic and novel characteristics of the invention.

**Stipulated Fact #27**

TigerWire is braided in the same way as FiberWire (Dreyfuss 9/16/05 at 31:24–32:2)(Undisputed Mitek Fact #10).

**Stipulated Fact #28**

Every FiberWire and TigerWire construction has a ratio of the cross-sectional area of ultra high molecular weight PE in the sheath and core to the total cross sectional area of all the yarns in the surgical suture that ranges from 20 to 80 percent (Brookstein Op. Expert Rpt. at ¶49; DMI Ex. 318)(Undisputed Mitek Fact #50).

**Stipulated Fact #29**

FiberWire size 4-0 does not have a core (*id.* at 55:21-23)(Undisputed Mitek Fact #25).

**Stipulated Fact #30**

The FiberWire size 4-0 suture has the same sheath configuration as the other size FiberWire sutures (*id.* at 104:17-105:9)(Undisputed Mitek Fact #24).

**Stipulated Fact #31**

Tevdek is a 100% braided polyester suture (Sluss Dep. at 35:17-22; *See* Grafton Dep. at 36:17-18).

**Stipulated Fact #32**

Mr. Grafton's idea was to add the PET and to improve the knot security of the suture (Undisputed Mitek Fact #30)(*id.* at 53:24-54:5).

**Stipulated Fact #33**

The FiberWire prototype suture that included PET braided with ultra-high molecular weight polyethylene had good knot security (*id.* at 54:24-55:1)(Undisputed Mitek Fact #31).

**Stipulated Fact #34**

The FiberWire sample, denoted as DePuy Mitek Deposition Ex. 284, underwent the FiberWire scouring and dyeing processes and all FiberWire manufacturing processes that are before the dyeing process, but no other FiberWire manufacturing processes (Hallett 1/11/2006 Dep. at 36:1-4; 36:19-12; DMI Ex. 279).

**Stipulated Fact #35**

The FiberWire sample, denoted as DePuy Mitek Deposition Ex. 285, underwent the FiberWire scouring and dyeing processes and all FiberWire manufacturing processes before the "final inspection/measuring" process (Hallett 1/11/2006 Dep. at 37:10-13; DMI Ex. 279).

**Stipulated Fact 36**

The FiberWire sample, denoted as DePuy Mitek Deposition Ex. 286, underwent the FiberWire scouring and dyeing processes and all FiberWire manufacturing processes before the "final inspection/measuring" process. It is the same as US 2 commercial FiberWire(Hallett 1/11/2006 Dep. at 38:17-39:6; 39:12-18;40:2-9, 12-17; 41:5-11; DMI Ex. 279).

**Stipulated Fact #37**

DePuy Mitek Deposition Exhibit 317 sets forth specification acceptance criteria for FiberWire (Hallett 1/12/2006 Dep. at 241:15-18).

**Stipulated Fact #38**

Pearsalls' batch records were generated in the normal course of Pearsalls' business (Hallett 1/12/2006 Dep. at 269:5-11).

**Stipulated Fact #39**

Plaintiff DePuy Mitek, Inc. ("DePuy Mitek") is a corporation organized under the laws of the State of Massachusetts and maintains its principal place of business at 325 Paramount Drive, Raynham, Massachusetts 02767.

**Stipulated Fact #40**

Defendant Arthrex, Inc. ("Arthrex") is a corporation organized under the laws of the State of Delaware and maintains its principal place of business at 1370 Creekside Boulevard, Naples, Florida 34108.

**Stipulated Fact #41**

Defendant Pearsalls, Ltd. ("Pearsalls") is a corporation organized under the laws of the United Kingdom and maintains its principal place of business at Tancred Street, Taunton, Somerset, England.

**Stipulated Fact #42**

Ethicon, Inc. ("Ethicon") is a corporation organized under the laws of the State of New Jersey and maintains its principal place of business at U.S. Route 22 West, P.O. Box 151, Sommerville, New Jersey 08876-0151.

**Stipulated Fact #43**

Arthrex sells FiberWire suture in the United States, as stand-alone suture, and also attached to needles or suture anchors.

**Stipulated Fact #44**

Arthrex's FiberWire suture contains a braid of ultra high molecular weight polyethylene (UHMWPE) and PET.

**Stipulated Fact #45**

Arthrex's FiberWire suture includes a coating of NuSil Med 2174.

**Stipulated Fact #46**

Arthrex's TigerWire suture contains a braid of ultra high molecular weight polyethylene (UHMWPE) , PET, and one nylon yarn.

**Stipulated Fact #47**

Arthrex's TigerWire suture includes a coating of NuSil Med 2174.

**Stipulated Fact #48**

Arthrex's FiberWire sutures are tipped.

**Stipulated Fact #49**

Arthrex's TigerWire sutures are tipped.

**Stipulated Fact #50**

DePuy Mitek and Ethicon, Inc. are affiliated with Johnson & Johnson.

**Stipulated Fact #51:**

Before Dr. Gitis conducted the tests described in his report dated March 23, 2006, Dr. Gitis sent, via Fedex, two envelopes containing U.S. No. 2 FiberWire suture to Sterile Systems, in Grand Rapids, Michigan. One of the envelopes Dr. Gitis sent to Sterile Systems contained a plastic bag of suture and was labeled "coated." The other envelope Dr. Gitis sent to Sterile

Systems contained a plastic bag of suture and was labeled “uncoated.” The sutures were sterilized in the envelopes at Sterile Systems. The two envelopes of suture were then returned to Dr. Gitis at CETR.

# EXHIBIT B

**DEPUY MITEK, INC.'S DEPOSITION DESIGNATIONS**  
*with Defendants' Objections & Counter-Designations of July 13, 2007*  
*& DePuy Mitek's Objections to Counter Designations and*  
*Counter-Counter Designations of July 20, 2007*

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MASSACHUSETTS**  
**C.A. No. 02 C 12457 PBS**

*Mary-Ellen Alling*  
*12/14/05*

<b>DESIGNATIONS BY DEPUY MITEK</b>		<b>COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS</b>		<b>COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK</b>	
<b>Pages: Line #s</b>	<b>Objections and Basis of Objections</b>	<b>Pages: Line #s</b>	<b>Objections and Basis of Objections</b>	<b>Pages: Line #s</b>	<b>Objections and Basis of Objections</b>
7:20-8:20					
9:20-10:10					
23:1-25					
52:18-53:11					
53:22-54:17					

*Robert T. Burks, M.D.*  
06/07/06

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
4:4-11					
5:3-4					
7:5-11		7:12-15			
11:17-16:17		16:18-17:17			
31:8-19		31:5-7; 31:20-32:24; 33:4-15; 34:7-25; 36:19- 37:23			
45:19-46:21		45:14-18			
51:12-14		51:15-24			
59:10-19		59:20-60:1			
60:25-61:6		61:7-17			
62:6-7					
62:10-12		62:13-16			
62:17-63:16		63:23-64:6			
64:7-18		64:19-21			
64:22-66:7					
66:12-67:1		67:2-3			
67:7-19		70:1-6	No question designated		
70:7-72:23		72:24-73:6			
73:9-20		73:8			
73:15-20		74:3-4; 74:7			
74:8-77:1	Relevance	77:8-17; 78:9-17			
78:18-79:20					



DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALES		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
82:4-22		82:23-25; 83:2-5; 83:8-21; 83:23-84:3; 84:11-17; 84:19-24			
84:25-86:6		86:7-12; 87:2-6			
87:7-88:3		88:4-6; 88:9-12			
91:20-92:5		92:21-93:5			
93:9-94:16		94:17-21			
94:22-97:1					
97:4-98:3		98:4-10			
98:15-21					
98:25-99:5					
		Hallett, 1/11/06 – 20:6 – 21:14	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
		Hallett, 1/11/06 – 33:21-34:7	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		
		Hallett, 1/11/06 – 34:21-24	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
		Hallett, 1/11/06 – 35:6-16	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		
		Hallett, 1/11/06 -35:22-25	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
		Hallett, 1/11/06 – 36:1-7	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		
		Hallett, 1/11/06 – 36:19-21	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
		Hallett, 1/11/06 – 37:2-4	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		
		Hallett, 1/11/06 – 37:10-23	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
		Hallett, 1/11/06 – 38:17-39:6	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		
		Hallett, 1/11/06 – 39:12-18	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
		Hallett, 1/11/06 – 40:2-9	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		
		Hallett, 1/11/06 – 40:12-17	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
		Hallett, 1/11/06 – 41:5-11	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		
		Hallett, 1/11/06 – 79:16-19	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		



DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
		Hallett, 1/12/06 – 250:19–251:3	It is improper to counter designate with testimony from an witness; This objection may be resolved pending the parties' negotiations regarding samples which are the subject of the designated testimony.		

*Peter Dreyfuss*  
09/16/05

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
4:1-4					
4:25-5:13					
8:16-9:22					
11:6-8					
11:10-15					
11:17					
11:22-12:3					
12:5-13:2					
13:4-9					
13:11-17					
13:19-25					
14:9-11					
14:13		14:15-17; 14:19-25			
15:1-9		15:22-16:1			
15:11-21		16:4-8			
16:9-12					
16:14-16					
16:18-21					
16:23-17:6					
17:8-11					
17:13-16					
17:18-22					
17:24-25					
18:5-14					
18:16-22					

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
19:9-11					
19:13-16					
19:18-21					
19:23-20:1					
20:3-8					
20:10-14					
20:16-19					
20:21-24					
21:1-4					
21:6					
21:23-25					
22:2-4					
22:6					
23:3-5					
23:7-10					
23:12-15					
23:17-20					
23:22-24					
24:1-4					
24:6-9					
24:11-14					
24:16-25:8					
25:17-19					
25:22-24					
26:1-7		26:16-20; 27:8-10; 27:13-16; 27:19-22			
26:9-15					
27:25-28:7					

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
28:13-15		28:16-23			
29:22-30:13		30:17-20; 30:23- 31:1			
31:24-32:5					
32:7-14		32:15-23			
36:3-11					
38:20-24					
40:25-41:3		41:4-8; 42:9-43:2			
43:15-19		47:16-21			
50:21-22					
50:24-51:10					
52:16-17					
55:21-56:2		56:9-17			
56:18-57:1					
64:7-17					
79:17-22					
79:25-80:4					
99:2-6					
99:8-100:8					
100:14-101:23					
101:25-102:9					
103:7-17					
104:3-16					
104:25-105:13					
106:20-107:9					
111:9-22					
116:4-11					
116:13-117:2					

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
117:4-7					
117:9-12					
117:15-18					
117:20					
117:23-25					
118:2-5					
118:7					
118:10-12					
118:14-17					
118:19-23					
118:25-119:4					
119:6-9					
119:11-14					
119:16-21					
119:23					
120:1-3					
120:5-8					
120:16-18					
120:20-23					
120:25-121:3					
121:5-8					
121:10-13					
121:15-18					
121:21-23					
121:25					
122:11-13					
122:15					
123:19-21					

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
123:23-124:1					
124:4-7					
124:9-12					
124:14-17					
124:22-24					
125:1-4					
125:6					
125:9-11					
125:13-16					
125:19-21					
125:23-126:1					
126:3-6					
126:8-11					
126:14-17					
126:19					

*Peter Dreyfuss*  
*12/07/05*

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
5:3-8					
13:20-15:2					
30:19-31:1					
41:20-42:1					
53:17-21					
68:3-15					
74:21-75:23	Relevance				
75:25-76:5	Relevance				
79:20-25					
80:10-21					
81:1-3					
94:5-8					
94:10-14		94:18-21			
94:16					
95:17-19					
95:21					
96:5-8		96:9-22			
114:23-115:2					

*Donald Grafton*  
03/14/06

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
5:2-6					
8:17-18					
13:14-23	Relevance	13:24-25; 14:3-6, 13-15			
15:8-15	Relevance	15:19-23; 16:10-25; 17:1-10	Not responsive to Mitek's designation; FRE 402/403 (not relevant)		
19:6-11	Relevance	19:25-20:1; 20:25-21:7; 22:5-14	Objection to 21:4-7; meaningless / no context		
19:18-24	Relevance	19:25-20:1; 20:25-21:7; 22:5-14			
22:23-25	Relevance	23:17-24:9			
24:10-19	Relevance	32:7-36:6			
24:22-25:25	Relevance				
26:14-27:6	Relevance				
31:22-32:4					
36:17-18					
37:4:20		36:19-37:3; 37:21-38:20			
38:21-40:2					
40:9-14					
44:5-47:5	Hearsay	48:18-49:9	FRE 402/403 (Fishing line analogy not relevant to infringement issue)	49:10-50:3	



DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
51:22-53:25		54:6-14			
54:4-5		55:2-5; 55:11-56:12; 57:1-8			
54:15-55:1					
55:6-10					
67:3-7	Hearsay				
67:20-68:4					
68:8-19					
68:25-70:13					
75:5-11	Hearsay				
100:8-16		104:7-11			
100:22-25					
103:11-104:6					

*Kevin Grieff*  
09/15/05

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
6:8-10					
7:3-22					
12:2-11		12:12-15; 12:17			
12:18-23					
16:24-17:3					
17:9-12		17:13-18			
19:20-20:22					
21:18-21		21:7-10			
25:15-25		26:1-5			
37:23-38:15		37:5-9; 37:11-22			
41:5-12					
45:19-46:12		46:19-47:6			
47:7-15					
48:6-49:17		62:8-10, 15-17, 19- 22; 64:3-16			

*Lee Lewis*  
06/30/06

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
5:4-5		13:3-6			
7:19-8:11		14:5-22; 15:1-8, 20-22; 15:25-16:22			
13:20-14:1					
16:23-17:21		18:18-20; 20:2-22:1			
18:9-17					
23:22-24:8		24:9-19			
27:10-25		30:1 – 31:12 [Stipulation]			

*Lawson Lyon*  
12/14/05

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
7:12-14					
8:4-11					
9:7-9	Relevance				
13:17-15:1					
15:15-19		15:11-14, 20-23			
35:4-11	Relevance				
35:17-18	Relevance				
36:10-15	Relevance				
47:19-48:1	Relevance				
48:4-6	Relevance				
48:8-13	Relevance				
48:19-49:21	Relevance (But not 49:4-21)	49:22-50:2			
53:19-54:3	Relevance				
65:9-15	Relevance				
65:25-66:1	Relevance				
66:4-67:6	Relevance				
67:15-68:8	Relevance				
78:20-79:4		79:5-8	FRE 602 (lacks foundation; FRE 702C (improper opinion testimony)		
79:9-15					
98:25-99:4					

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
99:7-9					
99:11-16		100:3-23; 101:2-21; 104:8-19			
115:3-9		115:17-116:25			
115:12-15					
119:2-21					
119:25-120:6					
122:5-9					
122:13-18					
144:6-16		144:17-24; 145:3-5; 145:7-146:13		146:14-23	
156:6-12		156:13-24			
188:6-14		187:24-188:5			
189:1-6					
189:12-16					
189:19					
189:21					
189:23-190:7					
192:14-192:22					
192:25-193:9					
197:6-19	Relevance				
199:15-17	Relevance				
199:19-22	Relevance				

*Richard Ponton*  
12/14/05

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
6:10-12					
6:17-21					
9:10-14					
9:25-10:4					
10:8-9					
10:11-17					
15:12-15					
15:19-20					
15:23-24					
16:4-10					
16:13-16					
17:11-18:2					
18:8-12					
18:18-21					
21:3-22:1					
23:2-15					
23:21-25					
24:2-11		24:12-17	FRE 402 (relevance)		
25:3-26:5					
26:14-27:19		27:20-24			
30:14-31:4					
31:7-11					
32:18-33:2					
33:7-15		34:24-35:2			

DESIGNATIONS BY DEPUY MITEK		COUNTER-DESIGNATIONS BY ARTHREX AND PEARSALLS		COUNTER-COUNTER DESIGNATIONS BY DEPUY MITEK	
Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections	Pages: Line #s	Objections and Basis of Objections
35:15-20					
36:2-25					
42:10-16					
44:1-6		44:7-11	FRE 402 (relevance)		
46:1-16		47:5-8	FRE 402 (relevance)		
48:16-18					
48:23-49:2					
52:6-10					
56:1-7					
57:11-19					
58:6-14					
63:7-25					
65:1-14					
65:25-67:5					
67:20-24		68:23-69:2; 69:19- 70:5; 70:8-25	FRE 402 (relevance)		
71:1-17					

# EXHIBIT C



**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
<b>Hal Brent Woodrow November 2, 2005</b>	4: 2, 4-6				
	5: 5-8				
	150: 10-25	FRE 402/403 – Deponent's opinion on reasons for claim language not relevant	74:7-13, 23-25; 75:2-7, 16-25; 76:13-77:2; 77:4-11; 77:21-79:7; 79:10-80:20; 81:6-82:10		75:8-15 80:21-25 83:2-4 84:24-25 85:10
	151: 2, 17-18, 21-25	FRE 402/403 – Deponent's opinion on reasons for claim language not relevant	74:7-13, 23-25; 75:2-7, 16-25; 76:13-77:2; 77:4-11; 77:21-79:7; 79:10-80:20; 81:6-82:10		
	152: 2-14	FRE 402/403 – Deponent's opinion on reasons for claim language not relevant	74:7-13, 23-25; 75:2-7, 16-25; 76:13-77:2; 77:4-11; 77:21-79:7; 79:10-80:20; 81:6-82:10		
<b>Shelby Cook Kornbluth November 15, 2005</b>	5: 11-20, 22- 24				

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	7: 10-12				
	58: 20-25	FRE 402 – Orthocord not relevant			
	59: 1-14	FRE 402 – Orthocord not relevant	86:19-87:13		59:15-18 59:22-60:1
	61: 13-17	No question FRE 402 – Orthocord not relevant			63:19-25
	63: 2-18	FRE 402 – Orthocord not relevant			
	64: 12-25	FRE 402 – Orthocord not relevant			
	65: 1-23	FRE 402 – Orthocord not relevant	65:24-66:10		
	66: 11-25	FRE 402 – Orthocord not relevant	71:15-18, 19-21		
	67: 1, 6-25	FRE 402 – Orthocord not relevant	67:4-5		

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations**

**July 23, 2007**

**Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	68: 1-5, 8-17	FRE 402 – Orthocord not relevant			
	119: 24-25	FRE 402 – Orthocord not relevant			
	120: 1-25	FRE 402 – Orthocord not relevant			
	121: 1-4	FRE 402 – Orthocord not relevant	121:5-17		121:18-19
	145: 20-25	FRE 402/403 – prejudicial – see Mitek's Motion in Limine #5			
	146: 1-8, 12-17, 20-24	FRE 402/403 – prejudicial – see Mitek's Motion in Limine #5			
	147: 2-5, 8-12, 15-19	FRE 402/403 – prejudicial – see Mitek's Motion in Limine #5			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	148: 14	FRE 402/403 – prejudicial – see Mitek's Motion in Limine #5			
	149: 1-4, 7-9, 12	FRE 402/403 – prejudicial – see Mitek's Motion in Limine #5			
	165: 22-25	FRE 702 – Orthocord not relevant			
	166: 1, 12-25	FRE 702 – Orthocord not relevant			
	167: 1-4	FRE 702 – Orthocord not relevant			
	200: 16-25	FRE 702 – Orthocord not relevant	201:16-17		
	201: 1-2, 25		201:3-17 209:3-7		
	202: 1-5, 14-25				
	203: 1-2				
<b>Dennis D. Jamiolkowski</b>	4: 6-11, 14-18				

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations**

**July 23, 2007**

**Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
<b>November 30, 2005</b>	6: 25				
	7: 1				
	159: 17-19				
	160: 13-17, 24-25				
	161: 1-25				
	162: 1-25				
	163: 1-22				
	164: 10-17, 25	Answer not designated	164:25-165:2		
	165: 1-2, 13- 25				
	166: 1-6, 17- 25				
	167: 1-18		167:19-25		169:3-11
<b>Richard Ponton December 14, 2005</b>	6: 10-12, 17- 21				
	16: 4-10		16:13-16		
	19: 10-25		18:22-19:9		
	20: 1-9, 21-24				
	21: 3-13, 15- 22				
	23: 7-12, 21- 25				
	24: 12-17				

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations**

**July 23, 2007**

**Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	26: 13-25				
	27: 1-6, 14-24				
	28: 20-22				
	30: 14-19, 22-25				
	31: 1-4, 7-11				
	32: 18-25		33:7-11		
	33: 1-2		33:7-11		
	34: 24-25				
	35: 1-2				
	44: 7-11				
	46: 1-9				
	47: 5-8				
	48: 16-18, 23-25				
	49: 1-2				
	52: 6-10				
	68: 23-25				
	69: 1-2, 19-25				
	70: 1-5, 14-15, 20-22				
	71: 1-3, 7-9				
<b>Gary B. McAlister December 22, 2005</b>	4: 11-13, 19-20				
	12: 23-25				

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations**

**July 23, 2007**

**Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	13: 1-12				
	15: 8-10				
	48: 11-15, 18-25		48:16-17		
	49: 1-2, 11-16	FRE 402 – relevance - Orthocord not relevant; FRE 602 – lack personal knowledge; FRE 802 – hearsay	49:25-50:19		
	53: 16-25	FRE 402 – relevance - Orthocord not relevant; FRE 602 – lack personal knowledge; FRE 802 – hearsay			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	54: 1-6, 10-14	FRE 402 – relevance - Orthocord not relevant; FRE 602 – lack personal knowledge; FRE 802 – hearsay			
	61: 18-25				
	64: 2-15	FRE 402/403 – relevance - Orthocord testing not relevant			
	96: 3-6, 20-23				
	113: 13-25				
	114: 1-5				
	124: 10-13	FRE 402/403 – reference to work product testing			
	135: 8-25				
	153: 17-19	FRE 402/403 – reference to work product testing			
	154: 6, 22-25	FRE 402/403 – reference to work product testing			



**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations**

**July 23, 2007**

**Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	155: 1-5, 7-19	FRE 402/403 – reference to work product testing	156:3-4, 6, 14-25; 157:1-25; 158:1-4		
	173: 18-25	FRE 602 – lack personal knowledge; FRE 701 – lay opinion; no rational basis; witness says not familiar with test			
	174: 1-7, 9				
<b>Neil D. Weber January 10, 2006</b>	5: 6-9, 13-15				
	17: 22-25				
	18: 1-8				
	88: 10-18	FRE 402/403 – Mitek's marketing considerations re development of its own suture irrelevant to infringement			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	89: 9-19, 22-25	FRE 402/403 – Mitek's marketing considerations re development of its own suture irrelevant to infringement			87:15-25 88:3-8
	90: 1-4	FRE 402/403 – Mitek's marketing considerations re development of its own suture irrelevant to infringement	90:5-91:7; 91:16-25		
<b>Matthew Goodwin January 17, 2006</b>	5: 8-11, 14				
	7: 9-12, 15-21				
	154: 10-22		154:23-24 155:6-13		
	156: 6-16		155:16-156:5		157:3-5 157:8-13 157:19-25 158:2-4
<b>Dr. Mark G. Steckel January 26, 2006</b>	5: 6-11, 14-23				
	29: 3-22		29:23-30:10		
	65: 2-14				
	76: 20-25				

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	77: 1-19				
<b>Dr. Mark G. Steckel February 3, 2006</b>	221: 3-5				
	235: 10-25				
	236: 1-10, 20-25		237:8-10, 12, 14-15		237:16-238:13
	237: 1-3				
	295: 23-25				
	296: 1-7, 12-21				
	308: 24-25		306:15-307:3; 307:8-10; 73:14-75:7		307:12-21 308:2-4 308:6-14
	309: 1-18, 20-25				
	310: 1-3				
<b>Alistair Simpson February 9, 2006</b>	4: 8-11, 14-18				
<b>Alistair Simpson February 10, 2006</b>	91: 14-25	FRE 402/403 – Coating on different suture irrelevant to issue of FiberWire infringement			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
Green = Defendants' Counter-Counter Designations**

<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	92: 2-4, 22-25	FRE 402/403 – Coating on different suture irrelevant to issue of FiberWire infringement			
	93: 2-18	FRE 402/403/601 – Coating on different suture irrelevant to issue of FiberWire infringement			
	94: 8-14	FRE 402/403 – Coating on different suture irrelevant to issue of FiberWire infringement			
	96: 4-10, 12, 21-25	FRE 402/403/601 – Coating on different suture irrelevant to issue of FiberWire infringement			
	97: 2-5	FRE 402/403/601 – Coating on different suture irrelevant to issue of FiberWire infringement			
<b>Richard Skula</b>	5: 8-11, 21-25				

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
<b>February 10, 2006</b>	6: 2-3				
	27: 15-16, 18-19, 22	FRE 402/403 In-house counsel's pre-suit activity not relevant to infringement	24:20-25; 25:7-10; 26:5-7		
	28: 4-5, 16-19, 21-25	FRE 402/403 In-house counsel's pre-suit activity not relevant to infringement			
	29: 2, 4, 11-15	FRE 402/403 In-house counsel's pre-suit activity not relevant to infringement			
	113: 8-16	FRE 402/403 In-house counsel's pre-suit activity not relevant to infringement			
	114: 25	FRE 402/403 In-house counsel's pre-suit activity not relevant to infringement			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	115: 2-4, 22-23, 25	FRE 402/403 In-house counsel's pre-suit activity not relevant to infringement			
	116: 2	FRE 402/403/105 – inhouse counsel's pre-suit activity not relevant to infringement			
	117: 2-14	FRE 402/403/106 – inhouse counsel's pre-suit activity not relevant to infringement	117:15-17		
	118: 11-25	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			
	119: 2, 16-25	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	120: 2, 4-10	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			
	121: 17-18, 23-24	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			
	123: 7-10, 14-17	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			
	124: 8-9, 21-24	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			
	125: 2-7, 17-24	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	126: 6-12, 14, 21-25	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	126:15-20		
	127: 2-6, 12-16, 20-22	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	127:23-24; 128:2-19		
	128: 20-25	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	127:23-24; 128:2-19		
	129: 2, 10-15, 25	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	129:3-9; 129:16-24		
	130: 2-3, 12-20	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	130:21-131:5; 132:3-7		



**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	131: 14-17	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	130:21-131:5; 132:3-7		132:8-12
	132: 16-25	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	133:16-24		
	133: 2-15	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	133:16-24		
	135: 3-7	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	135:8-136:10		136:11-14 137:5-6
	138: 12-22	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	137:7-10, 12-25; 138:2-11		

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	139: 2	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	139:3-10		139:14-25 140:2-17
	140: 18-21, 25	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			
	141: 2-14	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			
	142: 2-5, 9-25	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement			
	143: 2, 13-18	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	143:3-10; 143:19-144:6;		144:7-14 144:15-25 145:2-8 145:11-14

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	146: 16-25	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	143:3-10; 143:19-144:6;		
	147: 2-10	FRE 402/403 – inhouse counsel's pre-suit activity not relevant to infringement	148:4-6, 9-11, 15-19; 149:3-10	No Foundation	148:20-23 149:11-13
<b>Katherine Seppa February 10, 2006</b>	5: 11-12, 17-18				
	8: 6-9	FRE402/403 – improperly implies remainder of designated testimony is within 30(b)(6) scope when it is not	8:10-15		
	10: 8-16				
	14: 22-25				
	15: 5-16	Outside scope of 30(b)(6)			
	19: 3-14, 17-25	Outside scope of 30(b)(6)			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	20: 2-6, 24-25	Outside scope of 30(b)(6)			
	21: 2-25	Outside scope of 30(b)(6)			
	22: 2-4, 16-25	Outside scope of 30(b)(6)			
	23: 2-4, 10-18	Outside scope of 30(b)(6)			
	27: 2-19	Outside scope of 30(b)(6)			
	28: 5-7	Outside scope of 30(b)(6)			
	33: 15-20	FRE 402 – not relevant; Outside scope of 30(b)(6)			
	58: 6-14	FRE 402/403 – questions relate to work product testing and privileged communications; Outside scope of 30(b)(6)			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations**

**July 23, 2007**

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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	59: 15-24	FRE 402/403 – questions relate to work product testing and privileged communications; Outside scope of 30(b)(6)			
	61: 23-25	FRE 402/403 – questions relate to work product testing and privileged communications; Outside scope of 30(b)(6)			
	62: 2-4	FRE 402/403 – questions relate to work product testing and privileged communications; Outside scope of 30(b)(6)			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations**

**July 23, 2007**

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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	63: 20-24	FRE 402/403 – questions relate to work product testing and privileged communications; Outside scope of 30(b)(6)			
	66: 3-6	FRE 402/403 – questions relate to work product testing and privileged communications; Outside scope of 30(b)(6)			
	67: 11-15	FRE 402/403 – questions relate to work product testing and privileged communications; Outside scope of 30(b)(6)			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	68: 7-12, 16-21	FRE 402/403 – questions relate to work product testing and privileged communications; Outside scope of 30(b)(6)			
<b>Ilya Koyfman February 22, 2006</b>	5: 8-11, 14-18				
	18: 8-12				
	19: 2-4, 8-10	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5	19:11-14		

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	45: 3-25	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5	43:18-21,23		
	46: 2-7, 10-15	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5	47:4-10		



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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	61: 22-25	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5	62:1-9		62:10-16
	62: 22-25	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	63: 2-7, 10-23	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5	63:24-64:19		
	64: 20-25	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	65: 2-13, 17-25	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5			
	66: 2	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	99: 4-16	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5			
	100: 16-24	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5			

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	101: 8-20	FRE 402/403 – Mitek's development of Orthocord or other sutures not relevant to whether FiberWire infringes/Mitek Motion in Limine #5	102:22-23; 103:2-5		102:16-21
<b>Donald Grafton March 14, 2006</b>	5: 2-3				
	55: 11-15				
	56: 9-16				
	141: 12-17		141:18-25		
	142: 1-5, 20-25		143:1-9, 11-12; 143:24-144:21; 145:2-5		143:14-23 145:14-19 145:23-146:24
	144: 22-25				
	145: 1, 20-22		145:2-13		
	146: 25				
	147: 1-9, 19-25		147:10-18		148:14-19 150:8-17 150:19-22
	148: 1-8, 20-25		149:6-17		
	152: 18-25				

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations**

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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter-Designations</b>	<b>Objections to Counter-Designations</b>	<b>Counter-Counter Designations</b>
	153: 1-3				
	154: 6-17		154:18-22; 155:2-4; 156:8-13		154:23-155:1 156:4-7 156:14-157:8 157:13-20
<b>Robert T. Burks, M.D. June 7, 2006</b>	4: 22-25				
	5: 3-4		5:5-14, 21-23; 6:18-22; 7:5-11		
	11: 4-6, 17-25	FRE 402 – No context			
	12: 1-25				
	13: 1-25				
	14: 1-10, 13-25				
	15: 1-25				
	16: 1-25				
	17: 1-17		19:2-19; 20:5-13; 21:2-3; 22:17-22; 23:19-25		18:1-2 18:4-5
	24: 22-25		24:11-19 25:16-26:8; 26:14-27:3; 29:3-19		

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
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**July 23, 2007**

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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	25: 1-15		24:11-19; 25:16-26:8; 26:14-27:3; 29:3-19		
	31: 5-25				
	32: 1-24				
	33: 4-15		33:24-34:6		33:16-23
	34: 7-25				
	36: 19-25				
	37: 1-23				
	41: 22-25				
	42: 1, 15-25				
	43: 1-3				
	45: 14-25				
	46: 1-21				
	49: 5-25				
	50: 1-25				
	51: 1-11, 15-24		51:12-14		52:19-22
	52: 23-25				
	53: 1-7		56:23-57:12		
	55: 16-22		56:23-57:12; 58:9-59:9		61:25-62:2
	59: 10-25				
	60: 1, 25				

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	61: 1-17				
	62: 13-21				
	63: 10-15, 23-25		64:7-18		
	64: 1-6, 19-25		64:7-18		
	65: 1-25		64:7-18		
	66: 1-7, 12-18, 23-25		66:19-22; 71:21-72:23; 74:8-75:5; 87:7-13; 88:1-3		
	67: 1-3		67:4-68:3		68:17-69:19
	70: 1-14		69:20-23		
	73: 1-6, 8-14		71:21-72:23; 73:15-20		
	74: 3-4, 7		78:18-79:7		
	82: 4-25				
	83: 2-5, 8-21, 23-25				
	84: 1-3, 11-17, 19-25				
	85: 1-12, 18-25		86:3-16		
	86: 1		86:3-16		



**DePuy Mitex, Inc. v. Arthrex, Inc., et al.****Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations****July 23, 2007****Yellow = Defendants' Designations; Orange = Plaintiff's Counter-Designations;  
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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
	87: 2-6		87:7-13; 88:1-3		88:19-89:1 89:17-90:4
	91: 20-25				
	92: 1-5, 13, 21-25		92:14-16		
	93: 1-5, 9-25				
	94: 1-25				
	95: 1-25				
	96: 1-3, 5-17, 20-23		96:18-19; 96:24-97:1; 97:4-18		
	97: 19-25		98:1-3		99:9-15
	98: 4-16, 18- 25				
	99: 1-6				

**DePuy Mitex, Inc. v. Arthrex, Inc., et al.**

**Defendants' Deposition Designations; Plaintiff's Objections & Counter-Designations;  
Defendants' Objections to Counter-Designations & Counter-Counter Designations**

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<b>Witness</b>	<b>Page: Line Number(s)</b>	<b>Objections</b>	<b>Counter- Designations</b>	<b>Objections to Counter- Designations</b>	<b>Counter-Counter Designations</b>
<b>Brian Hallet January 11, 2006</b>	20:6 – 21:14				
	33:21-34:7				
	34:21-24				
	35:6-16				
	35:22-25				
	36:1-7				
	36:19-21				
	37:2-4				
	37:10-23				
	38:17-39:6				
	39:12-18				
	40:2-9				
	40:12-17				
	41:5-11				
	79:16-19				
<b>Brian Hallet January 12, 2006</b>	250:19–251:3				

# EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**DEPUY MITEK, INC.**  
**Plaintiff**

**v.**

**ARTHREX, INC. and**  
**PEARSALLS, INC.**  
**Defendants**

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§

**Civil Action No. 04-12457-PBS**

**PLAINTIFF'S DRAFT TRIAL EXHIBIT LIST OF JULY 23, 2007**

<b>Presiding Judge:</b>  The Honorable Patti B. Saris	<b>Plaintiff's Attorney(s):</b> Woodcock Washburn LLP Nutter McClennan & Fish LLP	<b>Defendant's Attorney(s):</b> Dickstein Shapiro LLP Todd & Weld LLP
<b>Trial / Hearing Date(s):</b> August 6, 2007	<b>Court Reporter:</b>	<b>Courtroom Deputy:</b>

<b>PLTF. EXH. NO.</b>	<b>DESCRIPTION</b>	<b>BATES NO.</b>	<b>Marked</b>	<b>Offered</b>	<b>Objection</b>	<b>Admitted</b>	<b>DATE</b>
1	05/02/05 AMENDED NOTICE OF DEPOSITION OF ARTHREX, INC. (SLUSS, 05/05/05).						
3	ARTHREX 2003/2004 PRODUCT CATALOG (SLUSS, 05/05/05).	ARM001495					
4	04/01/05 ARTHREX, INC.'S SUPPLEMENTAL OBJECTIONS AND RESPONSES TO DEPUY MITEK INC.'S INTERROGATORY NOS. 2, 4, 10 AND 12 (SLUSS, 05/05/05).				Relevance to extent not related to infringement		

PLTF. EXH. NO.	DESCRIPTION	BATES NO.	Marked	Offered	Objection	Admitted	DATE
5	EXCERPTS FROM ARTHREX PRODUCT CATALOG RELATING TO FIBERWIRE AND TIGERWIRE (SLUSS, 05/05/05).	ARM001469					
9	2004 ARTHREX COLOR PACKAGING "INTRODUCING FIBERWIRE – A NEW COMPOSITE SUTURE TECHNOLOGY", STERILE SAMPLE ENCLOSED (SLUSS, 05/05/05).	ARM001461					
10	2004 ARTHREX COLOR PACKAGING "INTRODUCING FIBERWIRE – A NEW COMPOSITE SUTURE TECHNOLOGY (FOR SMALL JOINT APPLICATIONS)", STERILE SAMPLE ENCLOSED (SLUSS, 05/05/05).	ARM001464					
11	2002 ARTHREX COLOR PACKAGING "FOR MAJOR ORTHOPAEDIC RECONSTRUCTIVE PROCEDURES WHERE SUTURE IS THE WEAKEST LINK, USING A STRONGER SUTURE IS CRITICAL – ARTHREX USP #2 FIBERWIRE WITH NEW REVERSE CUTTING NEEDLE" (SLUSS, 05/05/05).	ARM001463			Relevance		
13	2004 ARTHREX COLOR BROCHURE "BONE, TENDON OR LIGAMENT REPAIR? FIXATION SOLUTIONS FOR FOOT AND ANKLE SURGEONS" (SLUSS, 05/05/05).	ARM001477					
20	2004 ARTHREX COLOR BROCHURE "REVOLUTIONIZING ORTHOPAEDIC SURGERY – FIBERWIRE ORTHOPAEDIC COMPOSITE SUTURE" (SLUSS, 05/05/05).						
24	2005 ARTHREX COLOR BROCHURE "V-TAK SOFT TISSUE ANCHOR – REVOLUTIONIZING SMALL JOINT INTRAOSSEOUS SOFT TISSUE REPAIRS" (SLUSS, 05/05/05).				Relevance		
34	ARTHREX FALL 2001 NEWSLETTER "SCOPE THIS OUT – A TECHNICAL PEARLS NEWSLETTER FOR ARTHROSCOPISTS" VOL. 3, NUMBER 3 (SLUSS, 05/05/05).	ARM001473					
54	09/28/00 MPI FORM, MARKETING PRODUCT INITIATION BY GRAFTON REGARDING BLENDED NONABSORBABLE SUTURE 3.6:1 RATIO USING DYNEMA AS CORE AND POLYESTER AS THE OUTSIDE JACKET (SLUSS, 05/05/05).	ARM000933					
60	ARTICLE ENTITLED "FIBERWIRE: COLLECTIVE SUMMARY OF STRENGTH AND BIOCOMPATIBILITY TESTING DATA COMPARISONS OF POLYESTER AND POLYBLEND SUTURES" (SLUSS, 05/05/05).	ARM10614-10619					

PLTF. EXH. NO.	DESCRIPTION	BATES NO.	Marked	Offered	Objection	Admitted	DATE
62	2004 ARTHREX COLOR BROCHURE ENTITLED "REVOLUTIONIZING ORTHOPAEDIC SURGERY – FIBERWIRE BRAIDED POLYBLEND SUTURE" (SLUSS, 05/05/05).	ARM10564-10573					
63	2005 ARTHREX COLOR BROCHURE ENTITLED "REVOLUTIONIZING ORTHOPAEDIC SURGERY – FIBERWIRE ORTHOPAEDIC COMPOSITE SUTURE" (SLUSS, 05/05/05).	ARM10574-10581					
78	ARTHREX'S 02/28/01 510(K) PREMARKET NOTIFICATION TO THE FDA OF ARTHREX'S FIBERWIRE (WATERHOUSE, 08/24/05).	ARM001888-2078					
81	04/26/01 LETTER FROM WATERHOUSE TO ARTHREX RE: AMENDMENT TO ORIGINAL PRE-MARKET SUBMISSION 510(K) #K010673, ARTHREX FIBERWIRE (WATERHOUSE, 08/24/05).	ARM002103-2165					
86	05/02/02 LETTER FROM WATERHOUSE TO FDA RE: 510(K) PRE-MARKET NOTIFICATION OF ARTHREX FIBERWIRE FAMILY (WATERHOUSE, 08/24/05).	ARM8278-8374					
92	07/22/03 LETTER FROM WATERHOSUE TO FDA RE: 510(K) PRE-MARKET NOTIFICATION OF ARTHREX FIBERTAPE FAMILY (WATERHOUSE, 08/24/05).	ARM8134-8230					
99	ARTHREX, INC.'S OBJECTIONS AND ANSWERS TO DEPUY MITEK, INC.'S FIRST SET OF INTERROGATORIES DATED 02/16/05 (J. SCHMIEDING, 08/24/05).				Relevance to extent not related to infringement		
100	THIRD AMENDED NOTICE OF DEPOSITION OF ARTHREX, INC. DATED 09/12/05 (GRIEFF, 09/15/05).						
101	2005 ARTHREX PRODUCT CATALOG	ARM18334-18614					
102	VOLUME 1 OF 2 OF ARTHREX'S TECHNICAL FILE RE: ARTHREX FIBERWIRE, AR-7200 (GRIEFF, 09/15/05).	ARM8454-8783					
103	05/09/02 EXCLUSIVE MANUFACTURING AGREEMENT BETWEEN ARTHREX AND PEARSALLS (GRIEFF, 09/15/05).	ARM001696-1697			Relevance		
106	05/04/01 ARTHREX PURCHASE ORDER NUMBER 18450, SUPPLIER RK MANUFACTURING, SHIPPED TO ARTHREX INC. (GRIEFF, 09/15/05).	RK00002					
110	PEARSALLS LIMITED EXPORT INVOICE NUMBER 9362 FOR US 5 BLUE FIBERWIRE TO DELIVERY TO RK MANUFACTURING (GRIEFF, 09/15/05).	RK00693					

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111	10/14/02 DHL CUSTOMS DUTY INVOICE NUMBER 11211534 FROM PEARSALLS LTD TO RK MANUFACTURING (GRIEFF, 09/15/05).	RK00689					
112	09/15/05 HANDWRITTEN DRAWING BY HOLLOWAY RE: KNOT STRENGTH (HOLLOWAY, 09/15/05).						
113	09/15/05 HANDWRITTEN DRAWING BY HOLLOWAY RE: KNOT SECURITY (HOLLOWAY, 09/15/05).						
114	09/15/05 HANDWRITTEN DRAWING BY HOLLOWAY RE: MTS SINTECH 1/5 (HOLLOWAY, 09/15/05).						
115	02/20/04 LETTER FROM SOFFEN TO SKULA ATTACHING COPY OF PROTOCOL AND RESULTS OF TEST CONDUCTED BY ARTHREX TO EVALUATE THE FORCE REQUIRED TO ADVANCE A KNOT USING COATED AND UNCOATED FIBERWIRE SUTURE (HOLLOWAY, 09/15/05).						
117	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF TWISTING PROCESS FOR CORE PRODUCTION OF FIBERWIRE (DREYFUSS, 09/16/05).						
118	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF APPROXIMATE BRAIDING PROCESS (DREYFUSS, 09/16/05).						
119	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF PARTIAL SCHEMATIC OF 8 CARRIER BRAIDING MACHINE (DREYFUSS, 09/16/05).						
120	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF COATING PROCESS SCHEMATIC (DREYFUSS, 09/16/05).						
121	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF APPROX. CROSS-SECTION OF ARTHREX 2/0 FIBERWIRE (DREYFUSS, 09/16/05).						
122	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF APPROX. X-SECTION OF #2 FIBERWIRE (DREYFUSS, 09/16/05).						
123	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF APPROX. X-SECTION OF SIZE 0 FIBERWIRE (DREYFUSS, 09/16/05).						
124	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF APPROX. X-SECTION OF SIZE 3/0 FIBERWIRE (DREYFUSS, 09/16/05).						

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125	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF SIZE 4/0 FIBERWIRE (DREYFUSS, 09/16/05).						
126	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF APPROX. X-SECTION OF SIZE 2 TIGERWIRE (DREYFUSS, 09/16/05).						
128	09/16/05 HANDWRITTEN DRAWING BY DREYFUSS OF APPROX. X-SECTION OF 2MM FIBERTAPE (DREYFUSS, 09/16/05).						
130	U.S. PATENT 5,314,446 ISSUED TO HUNTER, ET AL. ENTITLED "STERILIZED HETEROGENEOUS BRAIDS" (R. SCHMIEDING, 12/06/05).						
131	04/01/05 ARTHREX, INC.'S SUPPLEMENTAL OBJECTIONS AND RESPONSES TO DEPUY MITEK, INC.'S INTERROGATORY NOS. 2, 4, 10 AND 12 (R. SCHMIEDING, 12/06/05).				Relevance to extent not related to infringement		
132	09/25/01 ARTHREX MARKET PRODUCT INITIATION (MPI) "ADDITION OF NEW DIAMETERS AND CONFIGURATIONS OF FIBERWIRE PER BELOW" INITIATED BY GRAFTON (R. SCHMIEDING, 12/06/05).	ARM7286					
134	01/13/04 EMAIL FROM SOFFEN TO SCHMIEDING AND GRAFTON RE: OBTAINING SAMPLES OF FIBERWIRE FROM PEARSALLS WITH AND WITHOUT SILICONE COATING TO DEMONSTRATE COATING AFFECTS THE BASIC AND NOVEL PROPERTIES OF THE SUTURE (R. SCHMIEDING, 12/06/05).	ARM24334			Relevance – attorney/client communication that goes to willfulness – Mitek not asserting		
135	01/20/04 EMAIL FROM SOFFEN TO SCHMIEDING, ET AL. ATTACHING 01/16/01 LETTER FROM SKULA DENYING INFRINGEMENT ON BASIS OF FIBERWIRE COATING (R. SCHMIEDING, 12/06/05).	ARM24331-24333			Relevance – attorney/client communication that goes to willfulness – Mitek not asserting		
144	09/25/01 DESIGN HISTORY FILE FOR ADDITIONAL FIBERWIRE DIAMETERS, AR-7210, AR-7211, AR-7225 AND AR-7228 (DREYFUSS, 12/07/05).	ARM7276-7796					
157	10/19/05 RULE 30(B)(6) NOTICE OF DEPOSITIONS OF PEARSALLS LTD. (LYON, 12/14/05).						



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161	DT185 INDEX (LYON, 12/14/05).	PR7977-8112					
164	10/19/00 MEMO FROM HALLETT TO ARTHREX AND GRAFTON RE: POLYESTER – DYNEEMA BRAID AND ENCLOSING 4 DT TRIAL SAMPLES FOR INSPECTION (LYON, 12/14/05).	PR06515-6514					
166	07/28/04 FIBERWIRE FLOW CHART FOR US2 WITH DESCRIPTION OF PROCESS FOR BRAIDED FIBERWIRE D&C BLUE AND COATED AND PROCESS FOR BRAIDED FIBERWIRE NATURAL (LYON, 12/14/05).	PR06214					
167	01/02/05 DYNEEMA-POLYESTER SPECIFICATION FOR US 2 FIBERWIRE (LYON, 12/14/05).	PR12331-12332					
168	PEARSALLS SUTURES TEST RESULTS FOR BATCH 07942 (LYON, 12/14/05).	PR04640-4652					
172	12/07/01 FAX FROM LYON TO GRAFTON RE: BREAKDOWN OF DYNEEMA NEEDED TO MEET 2002 FORECAST FROM KREBS (LYON, 12/14/05).	ARM001620					
178	ARTHREX, INC.'S SUPPLEMENTAL OBJECTIONS AND RESPONSES TO DEPUY MITEK, INC.'S INTERROGATORY NOS. 2, 4, 10 AND 12 DATED 04/01/05 (SOFFEN, 01/04/06).						
180	12/01/03 LETER FROM SKULA TO SOFFEN CONFIRMING PHONE CONVERSATION REGARDING U.S. PATENT 5,314,446 ASSIGNED TO ETHICON AND CLAIMS OF THIS PATENT HAVING APPLICABILITY TO ARTHREX FIBERWIRE SUTURE PRODUCT (SOFFEN, 01/04/06).	ARM000698					
181	NOTICE OF SUBPOENA OF R.K. MANUFACTURING WITH ATTACHED SUBPOENA DATED 10/28/05 (PONTON, 12/14/05).						
182	CHART OF RK MANUFACTURING CORP.'S PRODUCTION PROCESS (PONTON, 12/14/05).	RK01698					
183	09/18/02 CUSTOMS DUTY INVOICE NO. 11199565 FROM PEARSALLS LTD TO RK MANUFACTURING FOR FIBERWIRE POLYESTER MATERIAL (ALLING, 12/14/05).	RK00879-884					
184	06/11/01 ARTHREX REQUISITION FORM BY GRAFTON AND QUOTATION BY RK MANUFACTURING FOR ARTHREX PRODUCT NO. AR-7200 REV. 1 FIBERWIRE (ALLING, 12/14/05).	ARM12995-12998					
196	08/24/01 FED EX RECEIPTS OF RK MANUFACTURING (ALLING, 12/14/05).	RK01675-1679					

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215	06/29/04 EMAIL FROM SOFFEN TO SKULA REGARDING SKULA'S COMMENT THAT COATED/UNCOATED SAMPLES OF 2/20/04 APPEAR TO ETHICON TO BE DIFFERENT SUTURE (SOFFEN, 01/04/06).	ARM24283					
216	02/13/04 EMAIL FROM SOFFEN TO SKULA REGARDING ARTHREX'S TESTING OF FIBERWIRE PRODUCT (SOFFEN, 01/04/06).	ARM24292					
218	02/15/01 AND 02/16/01 ENGINEERING MEETING NOTES – FIBERWIRE DESIGN REVIEW (SOFFEN, 01/04/06).	ARM8607					
226	LIST OF ARTHREX PARTS, INVOICES, SALES ORDERS AND DATES OF AVAILABILITY (SOFFEN, 01/04/06).	ARM000691					
227	CERTIFIED FILE HISTORY OF U.S. PATENT 5,314,446 ISSUED TO HUNTER, ET AL. ENTITLED "STERILIZED HETEROGENEOUS BRAIDS" (SOFFEN, 01/04/06).	DMI000010-337			Relevance		
231	05/30/06 SUBPOENA ISSUED TO ROBERT T. BURKS (BURKS, 06/07/06).				Relevance		
235	PHYSICAL SAMPLE: PEARSALLS LIMITED US 2 FIBERWIRE M/C STATE, SCOURED / DYED (BURKS, 06/07/06).						
236	PHYSICAL EXHIBIT: PEARSALLS LIMITED BRAIDED POLYESTER SUTURE 2B-F/W, 37G500500, BATCH: DT PS05T2 (BURKS, 06/07/06).						
237	PHYSICAL SAMPLE: PEARSALLS LIMITED US 2 FIBERWIRE M/C STATE, DYED / COATED (BURKS, 06/07/06).						
238	06/08/06 SUBPOENA ISSUED TO DEBI PRASAD MUKHERJEE (MUKHERJEE, 06/13/06).				Relevance		
240	03/24/06 RESPONSIVE EXPERT REPORT OF DR. DEBI PRASAD MUKHERJEE CONCERNING NON-INFRINGEMENT OF U.S. PATENT NO. 5,314,446 AND OTHER MATTERS (WITH EXHIBITS 1-34) (MUKHERJEE, 06/13/06).						
241	01/03/06 AMENDED NOTICE OF DEPOSITION OF ARTHREX, INC. (J. SCHMIEDING 01/05/06).						
261	01/16/04 LETTER FROM SKULA TO SOFFEN FOLLOWING UP TO 01/12/04 CONVERSATION RE: U.S. PATENT 5,314,446 (J. SCHMIEDING, 01/05/06).	ARM000696-697					

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278	DEPUY MITEK'S AMENDED NOTICE OF INSPECTION TO PEARSALLS LTD. AND RULE 30(B)(6) NOTICE OF DEPOSITION OF PEARSALLS LTD DATED 01/03/06 (HALLETT, 01/11/06).						
279	PEARSALLS SUTURES FIBERWIRE/TIGERWIRE FLOWCHART DATED 05/08/05 (HALLETT, 01/11/06).	PR08324					
280	PEARSALLS SUTURES RESULTS FOR BATCH 25329 (HALLETT, 01/11/06).	PR04322-4336					
281	06/29/01 PEARSALLS SUTURES FIBERWIRE PROCESS FLOWCHART (HALLETT, 01/11/06).	ARM002554					
282	PHYSICAL SAMPLE: PEARSALLS LIMITED US 2 FIBERWIRE M/C STATE, SCoured (HALLETT, 01/11/06).						
283	PHYSICAL SAMPLE: PEARSALLS LIMITED US 2 FIBERWIRE M/C STATE, BEFORE SCoured (HALLETT, 01/11/06).						
284	PHYSICAL SAMPLE: PEARSALLS LIMITED US 2 FIBERWIRE M/C STATE, SCoured / DYED (HALLETT, 01/11/06).						
285	PHYSICAL SAMPLE: PEARSALLS LIMITED US 2 FIBERWIRE M/C STATE, DYED / COATED (HALLETT, 01/11/06).						
286	PHYSICAL EXHIBIT: PEARSALLS LIMITED BRAIDED POLYESTER SUTURE 2B-F/W, 37G500500, BATCH: DT PS05T2 (HALLETT, 01/11/06).						
287	PEARSALLS SUTURES FIBERWIRE/TIGERWIRE FLOWCHART WITH HANDWRITTEN NOTES OF HALLETT DATED 01/10/06 (HALLETT, 01/11/06).	PR08324					
292	06/23/05 PEARSALLS SUTURES LEZZENI TWISTING – MAKE-UP SPECIFICATION – FIBERWIRE, TIGERWIRE AND FISHING PRODUCTS USING SPECTRA AND DYNEEMA YARN (HALLETT, 01/11/06).						
293	07/23/04 PEARSALLS SUTURES FIBERWIRE AND TIGERWIRE TWISTING SPECIFICATIONS (HALLETT, 01/11/06).						
294	11/07/05 PEARSALLS SUTURES HACOPA YARN CHANGE CHART (HALLETT, 01/11/06).						

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299	10/05/05 PEARSALLS SUTURES FIBERWIRE AND TIGERWIRE BRAIDING – BRAID CHANGE CHART FOR FIBERWIRE AND TIGERWIRE (HALLETT, 01/11/06).						
303	04/26/05 PEARSALLS SUTURES BLUE SINGLES / FIBREWIRE PROCESS RECORD – ONLY TO BE DYED ON LC3 PROGRAMME NO. 11 (HALLETT, 01/11/06).						
304	03/27/01 PEARSALLS SUTURES BLACK POLYESTER, FIBREWIRE AND THINLINE PRESSURE MACHING SCOUR PROCESS RECORD (HALLETT, 01/11/06).						
305	06/10/03 PEARSALLS SUTURES QUALITY PLAN – BATCH TEST PLAN – STAGE 1 – EX DYE-HOUSE – TIGERWIRE AND FIBREWIRE – 3 BOBBINS PER BATCH (HALLETT, 01/11/06).						
307	07/18/05 PEARSALLS SUTURES PRODUCTION PROCEDURE PAD STRETCHING AND COATING OF FIBREWIRE / TIGERWIRE/LOOPS (HALLETT, 01/11/06).						
308	01/29/04 PEARSALLS SUTURES QUALITY PLAN – BATCH TEST PLAN – STAGE 2 – TIGERWIRE AND FIBREWIRE STRETCHING (HALLETT, 01/11/06).						
309	08/01/05 PEARSALLS SUTURES QUALITY PLAN – BATCH TEST PLAN – STAGE 3 – TIGERWIRE AND FIBREWIRE INTERMEDIATE (HALLETT, 01/11/06).						
310	08/01/05 PEARSALLS SUTURES QUALITY PLAN – BATCH TEST PLAN – STAGE 4 – TIGERWIRE FINISHED REEL (HALLETT, 01/11/06).						
311	04/21/05 PEARSALLS SUTURES FIBREWIRE AND TIGERWIRE MEASURING AND FINAL INSPECTION PROCESS (HALLETT, 01/11/06).						
313	03/19/03 PEARSALLS LIMITED VISIT REPORT BY MCLEOD FOR VISIT TO ARTHREX ON MARCH 12 AND 13, 2003 (HALLETT, 01/11/06).	ARM6374-6379					
318	11/05 LIST OF ARTHREX PRODUCTS / MATRIX OF LABEL PRODUCT AND DEVELOPMENT CODES (HALLETT, 01/12/06).						
319	03/10/99 FAX FROM DEWITT TO MUHLENBRUCH RE: SUTURE SPECS AND CERTS (HALLETT, 01/12/06).	ARM22520-22527			Relevance		
324	11/16/98 LETTER FROM GRAFTON TO HALLETT RE: TEST SAMPLES OF DYNEEMA (HALLETT, 01/12/06).	PR06556					

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325	11/16/98 MEMO FROM HALLETT TO GRAFTON RE: POLYESTER-DYNEEMA-BRAIDS (HALLETT, 01/12/06).	PR06493					
330	02/25/02 FAX FROM HALLETT TO GRAFTON RE: SPECTRA US 2 BRAIDED SAMPLE ESTIMATED (HALLETT, 01/12/06).	PR7643-7644					
338	PEARSALLS SUTURES RESULTS FOR BATCH 07998 (HALLETT, 01/12/06).	PR04899-4914					
339	PEARSALLS SUTURES RESULTS FOR BATCH 26866 (HALLETT, 01/12/06).	PR03720-3734					
340	PEARSALLS SUTURES RESULTS FOR BATCH 25330 (HALLETT, 01/12/06).	PR04308-4321					
341	PEARSALL SUTURES RESULTS FOR BATCH 25899 (HALLETT, 01/12/06).	PR03778-3791					
342	PHYSICAL SAMPLE: PEARSALLS LIMITED US 2 BLUE FIBERWIRE, SINGLE COATING, 15 MTRS, BATCH NO. 28790 (HALLETT, 01/12/06).				Relevance		
350	4/23/90 FAX FROM WILLS TO JONES RE: TABLE OF FIBRE PROPERTIES (LYON, 01/31/06).	PR08408-8409					
357	EXCERPTS FROM ENCYCLOPEDIA OF POLYMER SCIENCE AND ENGINEERING – VOLUME 16 (MUKHERJEE, 06/13/06).						
358	REBUTTAL EXPERT REPORT OF DR. MATTHEW HERMES DATED 04/13/06 WITH EXHIBITS 28 – 40 ATTACHED (MUKHERJEE, 06/13/06).						
359	EXPERT REPORT OF DR. MATTHEW HERMES DATED 03/24/06 WITH EXHIBITS 1 – 27 ATTACHED (MUKHERJEE, 06/13/06).				Relevance - Hearsay		
360	REBUTTAL EXPERT REPORT OF DR. DAVID BROOKSTEIN WITH EXHIBITS H – HH ATTACHED (MUKHERJEE, 06/13/06).				Hearsay; Unqualified Expert		
361	02/17/06 LETTER FROM LAWSON TO TAMBURRO ENCLOSING SAMPLES FOR DEMONSTRATION PURPOSES (MUKHERJEE, 06/13/06).	PR8455-8460					
362	HANDDRAWN GRAPH (MUKHERJEE, 06/13/06).						
363	03/07/06 EMAIL FROM GITIS TO TAMBURRO, SABER AND MUKHERJEE ATTACHING COMMON PROCEDURES OF SUTURE TESTING (MUKHERJEE, 06/14/06).	CETR 0042-47					

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364	SUTURE PRODUCED FOR INSPECTION BY ARTHREX WITH LABEL "UNCOATED" – PHYSICAL SAMPLE RETAINED BY ARTHREX (MUKHERJEE, 06/14/06).						
365	SUTURE PRODUCED FOR INSPECTION BY ARTHREX WITH LABEL "COATED" – PHYSICAL SAMPLE RETAINED BY ARTHREX (MUKHERJEE, 06/14/06).						
377	EXPERT REPORT OF JOHN F. WITHERSPOON WITH RESPECT TO ISSUES OF INFRINGEMENT DATED 03/24/06 (WITHERSPOON, 06/20/06).						
380	NOTICE OF DEPOSITION OF NORMAN GITIS DATED 06/15/06 (GITIS, 06/21/06).				Relevance		
381	EXPERT REPORT OF GITIS – COMPARATIVE SUTURE TESTING DATED 03/23/06 (GITIS, 06/21/06).						
382	ENTIRE DATA PLOTS OF ALL TEST DATA GENERATED BY CETR (GITIS, 06/21/06).	CETR0076-79					
383	COLLECTION OF EMAILS BETWEEN TAMBURO, GITIS, SAECHAO AND SABER RE: CETR TEST DATA ON FIBERWIRE SUTURES AND CETR TO FED EX FIBERWIRE SUTURES BACK TO SAL (GITIS, 06/21/06).	CETR 0086-91					
384	CETR BROCHURE ENTITLED "COMPREHENSIVE MATERIALS TESTING FOR MECHANICAL AND TRIBOLOGICAL PROPERTIES" (GITIS, 06/21/06).	CETR0071-74					
385	HANDDRAWN GITIS SCHEMATIC OF COMPONENTS OF SERVO CONTROL (GITIS, 06/21/06).						
386	COLLECTION OF EMAILS BETWEEN GITIS, TAMBURO, SABER AND MUKHERJEE REGARDING SUTURE TESTING AT CETR AND ATTACHMENT OF COMMON PROCEDURES OF SUTURE TESTING (GITIS, 06/21/06).	CETR48-53					
387	COLLECTION OF EMAILS BETWEEN TAMBURO, GITIS, MUKHERJEE AND SABER RE: SUTURE TESTING AT CETR (GITIS, 06/21/06).	CETR0038-41					
388	PHYSICAL SAMPLE: SUTURE (GITIS, 06/21/06).	CETR0075					
389	PHYSICAL SAMPLE: COATED SUTURE (GITIS, 06/21/06)	ARM25903					
390	PHYSICAL SAMPLE: UNCOATED SUTURE (GITIS, 06/21/06)	ARM25904					
391	FEDERAL EXPRESS TRACKING RECEIPTS (GITIS, 06/21/06).	CETR54-57					

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392	PUBLICATION BY GITIS, ET AL ENTITLED "PRECISION EXPERIMENTAL MEASUREMENTS OF VISCOELASTIC PROPERTIES OF INDUSTRIAL POLYMERS", PROCEEDINGS OF THE 4 <sup>TH</sup> INTERNATIONAL CONFERENCE, MECHANICS OF TIME-DEPENDENT MATERIALS, OCTOBER 7-10, 2003, LAKE PLACID, NEW YORK, USA (GITIS, 06/21/06).	CETR0058-59					
393	MODULUS DATA GENERATED BY GITIS AND CETR FOR THE COATED SAMPLES (GITIS, 06/21/06).						
394	EXCERPT FROM MODULUS DATA GENERATED BY GITIS AND CETR FOR THE COATED SAMPLES (GITIS, 06/21/06).						
395	ARTICLE BY RODEHEAVER, ET AL ENTITLED "KNOTTING AND HANDLING CHARACTERISTICS OF COATED SYNTHETIC ABSORBABLE SUTURES" (GITIS, 06/21/06).						
396	EXCERPT OF DATA FROM TESTING OF COATED SAMPLES 1, 2 AND 3 (GITIS, 06/21/06).						
397	EXCERPT OF DATA FROM TESTING OF COATED SAMPLES (GITIS, 06/21/06).						
398	EXCERPT FROM 10 SECOND PAGE OF SAMPLE 2 (GITIS, 06/21/06).						
399	02/17/06 PEARSALLS CERTIFICATE OF CONFORMITY FOR BATCH 28893, BLUE FIBREWIRE, SIZE 2 (GITIS, 06/21/06).	PR08457					
400	02/17/06 PEARSALLS CERTIFICATE OF CONFORMITY FOR BATCH 28893, BLUE FIBREWIRE UNCOATED, SIZE 2 (GITIS, 06/21/06).	PR08456					
401	EXCERPT FROM THE 2005 U.S. PHARMACOPEIA (GITIS, 06/21/06).						
402	HANDWRITTEN STIFFNESS CALCULATIONS BY GITIS (GITIS, 06/21/06).						
403	DATA FOR THE PLIABILITY TEST GENERATED BY GITIS AND CETR FOR THE UNCOATED SAMPLES (GITIS, 06/21/06).						
404	KNOT STRENGTH TEST DATA AND CURVES GENERATED BY GITIS AND CETR FOR THE UNCOATED SAMPLES (GITIS, 06/21/06).						

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405	KNOT STRENGTH TEST DATA AND CURVES GENERATED BY GITIS AND CETR FOR THE COATED SAMPLES (GITIS, 06/21/06).						
406	KNOT RUN-DOWN TEST DATA GENERATED BY GITIS AND CETR FOR THE UNCOATED SAMPLES (GITIS, 06/21/06).						
407	KNOT RUN-DOWN TEST DATA GENERATED BY GITIS AND CETR FOR THE COATED SAMPLES (GITIS, 06/21/06).						
408	EXCERPT OF TEST DATA GENERATED BY GITIS AND CETR FOR THE COATED SAMPLES (GITIS, 06/21/06).						
409	EXCERPT OF TEST DATA GENERATED BY GITIS AND CETR FOR THE COATED SAMPLES (GITIS, 06/21/06).						
410	TEST DATA FOR THE FRICTION TEST GENERATED BY GITIS AND CETR FOR THE COATED SAMPLES (GITIS, 06/21/06).						
411	TEST DATA FOR THE FRICTION TEST GENERATED BY GITIS AND CETR FOR THE UNCOATED SAMPLES (GITIS, 06/21/06).						
412	TEST DATA FOR THE TISSUE DRAG CLAMP TEST GENERATED BY GITIS AND CETR FOR THE UNCOATED SAMPLES (GITIS, 06/21/06).						
413	TEST DATA FOR THE TISSUE DRAG GENERATED BY GITIS AND CETR FOR THE COATED SAMPLES (GITIS, 06/21/06).						
414	EXCERPT OF TEST DATA GENERATED BY GITIS AND CETR (GITIS, 06/21/06).						
415	EXCERPT OF TEST DATA GENERATED BY GITIS AND CETR (GITIS, 06/21/06).						
416	09/29/04 CETR UMT-2 MULTI-SPECIMEN TEST SYSTEM USER MANUAL VERSION 1.01 (GITIS, 06/21/06).	CETR0155-243					
419	PUBLICATION BY GITIS ENTITLED "TRIBOMETROLOGICAL STUDIES IN BIOENGINEERING", PROCEEDINGS OF THE 2004 SEM X INTERNATIONAL CONGRESS AND EXPOSITION ON EXPERIMENTAL AND APPLIED MECHANICS, JUNE 7-10, 2004, COSTA MESA, CALIFORNIA, USA (GITIS, 06/21/06).	CETR0134-144					



<b>PLTF. EXH. NO.</b>	<b>DESCRIPTION</b>	<b>BATES NO.</b>	<b>Marked</b>	<b>Offered</b>	<b>Objection</b>	<b>Admitted</b>	<b>DATE</b>
420	03/09/06 EMAILS BETWEEN GITIS, TAMBURO, MUDHIVARTHI, VINOGRADOV, SABER AND MUKHERJEE RE: KNOT TYING AT CETR AFTER STERILIZATION (GITIS, 06/21/06).	CETR0102-103					
421	HANDWRITTEN DRAWING BY GRAFTON OF KNOT SECURITY TEST (GRAFTON, 03/14/06)						
422	02/07/03 TEST REPORT # APT #23, PART NUMBER: DTPS 21, DTPS 34, FIBERWIRE ¾ SUTURES, WHITE (GRAFTON, 03/14/06)	ARM25656-25666					
423	U.S. PATENT NO. 6,716,234 DATE 04/06/04 ISSUED TO GRAFTON, ET AL. ENTITLED "HIGH STRENGTH SUTURE MATERIAL" (GRAFTON, 03/14/06)	ARM000283-287					
426	EXCERPT FROM 2005 OCTOBER EDITION OF SOURCE – NEWSLETTER OF CONMED LINVATEC ENTITLED "HERCULINE HIGH-STRENGTH SUTURE" (GRAFTON, 03/14/06)	ARM256720					
427	04/29/04 SALES BULLETIN, FIBERWIRE VS. HERCULINE TEST REPORT (GRAFTON, 03/14/06)	ARM002184-2187					
428	PHYSICAL SAMPLE: US 2 FIBERWIRE COATED MED 2174 BATCH 03/26/16122 (GRAFTON, 03/14/06).	ARM25451					
429	PHYSICAL SAMPLE: US 2 FIBERWIRE M/C STATE (GRAFTON, 03/14/06).	ARM25590					
430	PHYSICAL SAMPLE: US 2 FIBERWIRE UNCOATED – FROM TARA SAMPLE UNCOATED FROM SPOOL – BATCH 05/24/27922 (GRAFTON, 03/14/06).	ARM25452					
431	COLLECTION OF EMAILS BETWEEN TAMBURO, GITIS AND SABER RE: SUTURE TESTING AT CETR AND DRAFT OF CETR REPORT WITH INTRODUCTION AND TEST PROCEDURES – NO TEST DATA YET (GITIS, 06/21/06).	CETR0099-101					
432	WEBSITE EXCERPT FROM WWW.SOCIALRESEARCHMETHODS.NET – "THE T-TEST" (GITIS, 06/21/06).						
433	ASTM: STANDARD TEST METHODS FOR TIRE CORDS, TIRE CORD FABRICS, AND INDUSTRIAL FILAMENT YARNS MADE FROM MANUFACTURED ORGANIC-BASE FIBERS (GITIS, 06/21/06).						

<b>PLTF. EXH. NO.</b>	<b>DESCRIPTION</b>	<b>BATES NO.</b>	<b>Marked</b>	<b>Offered</b>	<b>Objection</b>	<b>Admitted</b>	<b>DATE</b>
434	ASTM: STANDARD TEST METHOD FOR TENSILE PROPERTIES OF YARNS BY THE SINGLE-STRAND METHOD (GITIS, 06/21/06).						
435	02/17/06 LETTER FROM LAWSON TO TAMBURIO ENCLOSING COATED AND UNCOATED SAMPLES OF BATCH NO. 28893 FOR DEMONSTRATION PURPOSES WITH ATTACHMENT OF CERTIFICATES OF CONFORMITY (HALLETT, 06/30/06)	PR8455-8460					
436	PEARSALLS SUTURES WORKS ORDER FOR 28893, US 2 BRAIDED POLYESTER SUTURE 2B-F/W WITH ATTACHMENT OF BLUE SINGLES / FIBERWIRE PROCESS RECORD, BATES MACHINE MED 2174 SOLIDS CHECK, OLD BATES MACHINE LINE CLEARANCE RECORD SHEET, BATES MACHINE – MED 2174 PROCESS RECORD, CERTIFICATE OF CONFORMITY, KNOW PULL RESUTS FOR START, MIDDLE AND END REELS, RESUTLS AT INTERMEDIATE STAGE FOR BATCH 28893, RESULTS AT DYE STAGE FOR BATCH 28893 AND DETERMINATION OF D&C BLUE NO. 6 IN POLYESTER (HALLETT, 06/30/06)	PR8461-8473					
437	04/17/97 PEARSALLS SUTURES TEST METHODS FOR PROCEDURE NUMBERS TM 01, TM 04, TM 09, TM 14, TM 17, TM 22, TM 28, TM 36, TM 53, TM 54, TITLED “DETERMINATION OF RUNNAGE (HALLETT, 06/30/06)	PR8433-8454					
438	PHYSICAL SAMPLE: 5M LENGTH OF FIBERWIRE SUTURE FROM BATCH 28893 THAT IS PART OF A 10M RETENTION SAMPLE THAT IS SAVED FOR EACH PRODUCTION BATCH BY PEARSALLS (LEWIS, 06/30/06).						
453	LIST OF ARTHREX PRODUCTS AND FIRST INVOICE DATE PER ITEM.	ARM24165-A					
454	LIST OF TEVDEK PRODUCTS.	ARM24166			Relevance		
475	09/12/01 FIBERWIRE RELEASE RE: FIBERWIRE (AR-7200).	ARM002298-2299					
483	03/03/06 EXPERT REPORT OF DR. DAVID BROOKSTEIN (WITH EXHIBITS A-G).				Hearsay, Relevance, Unqualified Expert		

<b>PLTF. EXH. NO.</b>	<b>DESCRIPTION</b>	<b>BATES NO.</b>	<b>Marked</b>	<b>Offered</b>	<b>Objection</b>	<b>Admitted</b>	<b>DATE</b>
484	04/13/06 REBUTTAL EXPERT REPORT OF DR. DAVID BROOKSTEIN (WITH EXHIBITS H-HH).				Hearsay, Relevance, Unqualified Expert		
485	07/14/06 SUPPLEMENTAL EXPERT REPORT OF DR. DAVID BROOKSTEIN (WITH EXHIBITS II-AAA).				Hearsay, Relevance, Unqualified Expert		
486	07/24/06 AMENDED SUPPLEMENTAL EXPERT REPORT OF DR. DAVID BROOKSTEIN (WITH ATTACHMENT).				Hearsay, Relevance, Unqualified Expert		
488	04/13/06 REBUTTAL EXPERT REPORT OF DR. MATTHEW HERMES (WITH EXHIBITS 28-40).				Hearsay, Relevance		
489	PHYSICAL SAMPLE: FIBERWIRE.						
490	PHYSICAL SAMPLE: TIGERWIRE.						
493	DEMONSTRATIVES: PATENT FIGURES.						
494	DEMONSTRATIVES: PATENT CLAIMS.						
496	DEMONSTRATIVES: INFRINGEMENT.						
498	EXCERPT FROM MARKS' STANDARD HANDBOOK FOR MECHANICAL ENGINEERS, 8 <sup>TH</sup> EDITION.						
499	SCANNING ELECTRON MICROGRAPH BY BROOKSTEIN OF DEPUY MITEK EXHIBIT 284 (UNCOATED SAMPLE).				Unqualified Expert		
500	SCANNING ELECTRON MICROGRAPH BY BROOKSTEIN OF DEPUY MITEK EXHIBIT 342 (COATED ONCE).				Relevance		
501	SCANNING ELECTRON MICROGRAPH BY BROOKSTEIN OF DEPUY MITEK EXHIBIT 285 (COATED TWICE).				Unqualified Expert		
502	U.S. PATENT NO 4,413,110 BY KAVESH AND PREVORSEK ENTITLED "HIGH TENACITY, HIGH MODULUS POLYETHYLENE AND POLYPROPYLENE FIBERS AND INTERMEDIATES THEREFORE" ISSUED 11/01/83.						
503	EXCERPT OF PAGES 51-58 FROM TEXTILE SCIENCE AND TECHNOLOGY 6 ENTITLED "PRODUCTION AND APPLICATIONS OF POLYPROPYLENE TEXTILES" BY PAJGRT, ET AL.						
504	EXCERPT FROM WWW.SHAKESPEARMONOFILAMENTS.COM/PAGES/PRODUCTS/INDISTRIA....						

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505	EXCERPT FROM WWW.DYNEK.COM.AU/VILENE.HTML.						
506	CHART OF PEARSALLS' KNOT PULL STRENGTH BY BATCH.						
507	AUGUST 1959 ARTICLE BY PLATT, ET AL. ENTITLED "MECHANICS OF ELASTIC PERFORMANCE TEXTILE MATERIALS – PART XIV: SOME ASPECTS OF BENDING RIGIDITY OF SINGLES YARNS".				Hearsay, Relevance, Authenticity		
508	EXCERPT FROM DESIGN HISTORY FILE FOR "DEVICE TO ALLOW PASSAGE OF USP 2 FIBERWIRE SUTURE THROUGH SUTURE LASSO-TYPE INSTRUMENT (BUT W/SMALLER 0 PUNCTURE).	ARM7842, ARM7847-7850			Relevance		
509	BROOKSTEIN CHART OF SLOPE AND STIFFNESS VALUES.				Relevance, Authenticity, Unqualified Expert, Hearsay		
510	JUNE AND JULY 2004 EMAILS BETWEEN SOFFEN AND SKULA RE: FIBERWIRE COATED / NON-COATED SAMPLES.	ARM25591					
511	PLOTTED GRAPHS BY BROOKSTEIN OF TISSUE DRAG OF EACH OF THE 8 COATED AND 8 UNCOATED SUTURES.				Relevance, Authenticity, Unqualified, Hearsay		
519	01/05/05 SALES BULLETIN NUMBER UE133 RE: A BIOMECHANICAL ANALYSIS OF HIGH STRENGTH SUTURES.	ARM002188-2189			Relevance		
520	02/29/88 LAB NOTEBOOK NO. 2175 ISSUED TO MARK STECKEL.	DMI002605-2678					
521	PAGES 20-21 FROM ARTHREX, INC.'S OBJECTIONS AND ANSWERS TO DEPUY MITEK, INC.'S FIRST SET OF INTERROGATORIES				Relevance		
522	2001 PUBLICATION BY BAREISS, ET AL. ENTITLED "GENERIC SOURCE-BASED NOMENCLATURE FOR POLYMERS (IUPAC RECOMMENDATIONS 2001).						
523	08/09/04 ASSIGNMENT BETWEEN ETHICON, INC. AND DEPUY MITEK, INC. RE: U.S. PATENT NO. 5,314,446.	DMI000338-340					
524	12/29/03 MASSACHUSETTS CERTIFICATE OF INCORPORATION OF DEPUY MITEK, INC.				Relevance		

<b>PLTF. EXH. NO.</b>	<b>DESCRIPTION</b>	<b>BATES NO.</b>	<b>Marked</b>	<b>Offered</b>	<b>Objection</b>	<b>Admitted</b>	<b>DATE</b>
525	12/29/03 ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN ETHICON, INC. AND DEPUY MITEK, INC.	DMI039981-39982			Relevance, Hearsay		
526	12/29/03 JOHNSON & JOHNSON MEETING MINUTES RE: ACTION AUTHORIZED BY UNANIMOUS CONSENT OF FINANCE COMMITTEE IN LIEU OF A SPECIAL MEETING OF DIRECTORS.	DMI039979			Relevance, Hearsay		
527	12/08/03 RESTATED ARTICLES OF ORGANIZATION OF COMMONWEALTH OF MASSACHUSETTS BETWEEN INNOVASIVE DEVICES, INC. AND DEPUY MITEK, INC.	DMI039949-39952			Relevance		
531	FIBERWIRE INSTRUCTIONS FOR USE.						
533	ARTHREX INC.'S OBJECTIONS AND RESPONSES TO DEPUY MITEK, INC.'S FIRST SET OF REQUESTS FOR ADMISSION TO ARTHREX, INC. DATED 01/30/06.				Relevance to extent not related to infringement		
534	JOHNSON & JOHNSON CREDO				Relevance		
535	01/31/07 MEMORANDUM AND ORDER BY THE HONORABLE PATTI B. SARIS				Legal document not for Jury		
536	05/02/06 LETTER FROM TAMBURO TO BONELLA				Relevance, Hearsay		
537	CHART OF FIRST SALE OF PART #S WITH FIBERWIRE	ARM3355			Hearsay		
538	CURRICULUM VITAE OF DAVID BROOKSTEIN, SC.D.				Hearsay, Unqualified Expert, Relevance		
539	CURRICULUM VITAE OF MATTHEW E. HERMES, PH.D.				Hearsay - Relevance		
541	05/20/04 SALES BULLETIN, SMALL DIAMETER FIBERWIRE, NEW 3-0 AND 4-0 FIBERWIRE, NEW TAPERED NEEDLES FOR SMALL JOINT TENTON AND LIGAMENT REPAIRS (AR-7227-01 AND AR7230-01)	ARM2177-2178			Relevance		
542	06/10/04 SALES BULLETIN, SMALL DIAMETER FIBERWIRE, NEW 3-0 AND 4-0 FIBERWIRE, NEW REVERSE CUTTING NEEDLES FOR SMALL SOFT TISSUE REPAIRS (AR-7227-02 AND AR7230-02)	ARM2181-83			Relevance		
543	01/05/05 SALES BULLETIN, HIGH STRENGTH SUTURES, A BIOMECHANICAL ANALYSIS FO HIGH STRENGTH SUTURES (AR-7227-02 AND AR7230-02)	ARM2188-2191			Relevance		
544	ASTM: STANDARD TEST METHOD FOR TENSILE PROPERTIES OF PLASTICS	DB000001-15			Relevance - Hearsay		

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545	TESTWORKS4: CONTINUING TO SET THE STANDARD FOR MATERIAL, COMPONENT AND SUBASSEMBLY TESTING SOFTWARE	DB000016-28			Relevance – Hearsay, Authenticity		
546	EASTER 2006 GORDON LABORATORY SEMINAR SERIES	DB000029-36			Relevance – Hearsay, Authenticity		
547	EXCERPTS FROM “UNDERSTANDING TEXTILES”, FIFTH EDITION, BY TORTORA AND COLLIER	DB000037-39			Relevance – Hearsay, Authenticity		
548	EXCERPTS FROM “FIBER SCIENCE” BY WARNER	DB000067-68			Relevance – Hearsay, Authenticity		
549	EXCERPTS FROM “AN EXPERIMENTAL METHOD FOR DETERMINING THE HEAT-TRANSFER COEFFICIENT OF POLYMERIC FIBRES AND YARNS DURING RAPID CONVECTIVE HEATING” BY R. BROOKS	DB000103-109			Relevance – Hearsay, Authenticity		
550	PHOTOMICROGRAPH OF ARM25903, COATED	DB000169			Relevance – Hearsay, Authenticity, Unqualified Expert		
551	PHOTOMICROGRAPH OF ARM25903, COATED	DB000170			Relevance – Hearsay, Authenticity, Unqualified Expert		
552	PHOTOMICROGRAPH OF ARM25904, UNCOATED	DB000171			Relevance – Hearsay, Authenticity, Unqualified Expert		
553	PHOTOMICROGRAPH, COATED	DB000172			Relevance – Hearsay, Authenticity, Unqualified Expert		

<b>PLTF. EXH. NO.</b>	<b>DESCRIPTION</b>	<b>BATES NO.</b>	<b>Marked</b>	<b>Offered</b>	<b>Objection</b>	<b>Admitted</b>	<b>DATE</b>
554	PHOTOMICROGRAPH OF ARM25903, COATED	DB000173			Relevance – Hearsay, Authenticity, Unqualified Expert		
555	PHOTOMICROGRAPH, COATED	DB000174			Relevance – Hearsay, Authenticity, Unqualified Expert		
556	CALCULATION OF SUTURE TEMPERATURE AS IT MOVES THROUGH PEARSALL'S OVEN	DB000175			Relevance – Hearsay, Authenticity, Unqualified Expert		
557	GRAPHS OF EFFECT OF TENSILE LOADING RATE ON TENSILE STIFFNESS	DB000176-180			Relevance – Hearsay, Authenticity, Unqualified Expert		
558	MEMO BY DAVID BROOKSTEIN "WHAT WE FOUND OUT AT PEARSALLS"	DB000181-183			Relevance – Hearsay, Authenticity, Unqualified Expert		
559	MEMO BY DAVID BROOKSTIEN "REVIEW OF RAW DATA SUPPLIED BY DR. NORM GITIS, CENTER FOR TRIBOLOGY, INC. (MARCH 23, 2006)	DB000184-187			Relevance – Hearsay, Authenticity, Unqualified Expert		
560	PEARSALLS, LIMITED'S OBJECTIONS AND ANSWERS TO DEPUY MITEK, INC.'S FIRST SET OF INTERROGATORIES TO PEARSALLS LIMITED DATED 01/27/06				Relevance		
561	08/28/06 DECLARATION OF DR. NORM GITIS (GITIS, 07/18/07).						
562	02/17/92 ASSIGNMENT BETWEEN MARK STECKEL AND ETHICON REGARDING STERILIZED HETEROGENEOUS BRAIDS INVENTION						

<b>PLTF. EXH. NO.</b>	<b>DESCRIPTION</b>	<b>BATES NO.</b>	<b>Marked</b>	<b>Offered</b>	<b>Objection</b>	<b>Admitted</b>	<b>DATE</b>
563	02/18/92 ASSIGNMENT BETWEEN ALASTAIR HUNTER, DENNIS JAMIOLKOWSKI, ARTHUR TAYLOR AND ETHICON REGARDING STERILIZED HETEROGENEOUS BRAIDS INVENTION						
564	PHYSICAL SAMPLE CONSIDERED BY DAVID BROOKSTEIN	DB000159					
565	PHYSICAL SAMPLE CONSIDERED BY DAVID BROOKSTEIN	DB000160					
566	PHYSICAL SAMPLE CONSIDERED BY DAVID BROOKSTEIN	DB000161					
567	PHYSICAL SAMPLE CONSIDERED BY DAVID BROOKSTEIN	DB000162					
581	07/16/07 SUBPONEA ISSUED TO NORMAN GITIS (GITIS, 07/18/07).						
586	07/24/06 EMAIL FROM TAMBURO TO BONELLA REGARDING GITIS VIRUS (GITIS, 07/18/07)						
587	DEPUY MITEK'S MOTION AND MEMORANDUM IN SUPPORT TO PRECLUDE ARTHREX AND PEARSALLS FROM SUPPLEMENTING THEIR EXPERT REPORTS IN DEPOSITION DATED 08/09/06 - WITH EXHIBITS (GITIS, 07/18/07).						
588	HANDWRITTEN DRAWING/CALCULATIONS BY DR. GITIS (GITIS, 07/18/07).						
589	PRINTOUT OF FILE NAMES CONTAINED ON CD CETR0247 (GITIS, 07/18/07).						
590	EXCERPT OF GITIS DATA FROM CD CETR0247 (GITIS, 07/18/07).						
591	NEW PLOT OF COATED DATA FROM CD CETR0247 (GITIS, 07/18/07).						
592	PLOT OF DATA WITH ANNOTATIONS BY DR. GITIS (GITIS, 07/18/07).						
593	SPEED DATA PLOT GENERATED BY DR. GITIS OF UNCOATED SAMPLES FOR PLIABILITY TEST FROM CD CETR0247 (GITIS, 07/18/07).						
594	GRAPH GENERATED BY DR. GITIS OF COATED SAMPLES IN KNOT SLIPPAGE STRENGTH TEST FROM CD CETR0247 (GITIS, 07/18/07).						
595	GRAPH GENERATED BY DR. GITIS OF UNCOATED						



PLTF. EXH. NO.	DESCRIPTION	BATES NO.	Marked	Offered	Objection	Admitted	DATE
	SAMPLES IN KNOT SLIPPAGE STRENGTH TEST FROM CD CETR0247 (GITIS, 07/18/07).						
596	FIRST PAGE OF UNCOATED KNOT SLIPPAGE STRENGTH TEST DATA GENERATED BY DR. GITIS FROM ORIGINAL DATA (GITIS, 07/18/07).						
597	FIRST PAGE OF COATED KNOT SLIPPAGE STRENGTH TEST DATA GENERATED BY DR. GITIS FROM ORIGINAL DATA (GITIS, 07/18/07).						
598	10/13/06 CETR INVOICE #2648 TO TAMBURIO (GITIS, 07/18/07).						
599	09/05/06 CETR INVOICE #2637 TO TAMBURIO (GITIS, 07/18/07).						
600	06/22/06 CETR INVOICE #2560 TO TAMBURIO (GITIS, 07/18/07).						
601	04/25/06 CETR INVOICE #2554 TO TAMBURIO (GITIS, 07/18/07).						
602	03/23/06 CETR INVOICE #2532 TO TAMBURIO (GITIS, 07/18/07).						
603	03/08/06 CETR INVOICE #2527 TO TAMBURIO (GITIS, 07/18/07).						
604	08/16/06 EMAIL FROM TAMBURIO TO GITIS RE: NEED TO PROVIDE COURT WITH VERY DETAILED AND TECHNICAL EXPLANATION OF VIRUS (GITIS, 07/18/07).						
605	08/28/06 EMAIL FROM TAMBURIO TO GITIS ATTACHING DECLARATION (GITIS, 07/18/07).						
606	05/15/07 EMAIL FROM GITIS TO TAMBURIO FORWARDING FEDERAL EXPRESS TRACKING NUMBER (GITIS, 07/18/07).						
607	KNOT SLIPPAGE TEST DRAWING BY DR. GITIS						

**NOTE: Plaintiff reserves the right to amend this list of trial exhibits and to use trial exhibits included on Defendants' list. Demonstrative exhibits, summary exhibits, blow-ups and the like will be exchanged by the parties closer to trial.**

# EXHIBIT E

**Defendants Arthrex, Inc.'s and Pearsalls, Ltd.'s Exhibit List – 7/23/2007**

<b>TEX #</b>	<b>Description</b>	<b>Bates Range</b>	<b>Previously Used</b>	<b>Objections</b>	<b>I n / O u t</b>
<b>DTEX-1003</b>	CETR Raw Data on disc	ARM 25902			
<b>DTEX-1004</b>	Assignment: Ethicon, Inc., ASSIGNOR and DePuy Mitek, ASSIGNEE of U.S. Pat. No. 5,314,446	DMI 000338 – 000340	Defendants' Deposition Exhibit #5		
<b>DTEX-1005</b>	Management Review document titled: "Shoulder Anatomy" (color, undated)	DMI 039231 – 039244	Defendants' Deposition Exhibit #9	401-403 Orthocord Marketing & Research is irrelevant to infringement	
<b>DTEX-1006</b>	U.S. Patent No. 5,314,446, "Sterilized Heterogeneous Braids," A.W. Hunter et al., Inventors	N/A	Defendants' Deposition Exhibit #10		
<b>DTEX-1007</b>	Presentation: "Orthocord Management Design Review"	DMI 001001 – 001025	Defendants' Deposition Exhibit #11	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1008</b>	Presentation: "Orthocord" by Doug George	DMI 000977 – 000999	Defendants' Deposition Exhibit #12	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1009</b>	Presentation: "New Suture Concept Design Review"	DMI 001096 – 001101	Defendants' Deposition Exhibit #13	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1010</b>	Memo Regarding: Mitek development of alternate high-strength suture to Arthrex's Fiberwire	DMI 039558 – 039559	Defendants' Deposition Exhibit #14	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1011</b>	Presentation: "Orthocord Update"	DMI 039500 – 039517	Defendants' Deposition Exhibit #15	401-403 Orthocord Research Mitek Motion in Limine#5	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1012</b>	Printout of website for Shakespeare	DMI 040832 – 040833	Defendants' Deposition Exhibit #17		
<b>DTEX-1013</b>	R&D Monthly Status Report, October 2002, to Mr. D. Longstreet (cc Ethicon GMB), dated November 8, 2002	DMI 038169 – 038174	Defendants' Deposition Exhibit #18	401-403 Mitek R&D Summary Motion in Limine#5	
<b>DTEX-1014</b>	CPC Departmental Plan for Blue ORTHOCORD* (MITEK Suture), Version 2, dated September 9, 2004	DMI 038149 – 038153	Defendants' Deposition Exhibit #19	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1015</b>	Presentation: Blue Orthocord, Feasibility -> Development, Gary McAlister and Shelby Cook	DMI 006560 – 006574	Defendants' Deposition Exhibit #21	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1016</b>	OrthoCord Suture Development – Interim Report, by Ilya Koyfman	DMI 039630 – 039646	Defendants' Deposition Exhibit #22	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1017</b>	Presentation: “Synthetic Absorbable Sutures 2004 – Product Marketing” (color)	DMI 038684 – 038773	Defendants' Deposition Exhibit #23	401-403 Orthocord Research Mitek Mitek Motion in Limine#5	
<b>DTEX-1018</b>	Design Development and Validation Summary (DDVS) for Orthocord	DMI 040859 – 040870	Defendants' Deposition Exhibit #24	401-403 Ethicon Absorbable suture document, not relevant to infringement	
<b>DTEX-1019</b>	OrthoCord Suture Development Interim Report, by Ilya Koyfman and Hank Pokropinski	DMI 039421 – 039445	Defendants' Deposition Exhibit #25	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1020</b>	Protocol for a Orthocord Surgeon Evaluation	DMI 000414 – 000417	Defendants' Deposition Exhibit #26	401-403 Orthocord Research Mitek Motion in Limine#5	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1021</b>	Polymer & Suture Technologies – Quarterly Status Report: 3rd Quarter Research & Technology Devel., Wound Closure R&D, by Irene Nozad, Ph.D., Director	DMI 039695 – 039717	Defendants’ Deposition Exhibit #27	401-403 Orthocord and other Irrelevant Product Research Mitek Motion in Limine#5	
<b>DTEX-1022</b>	Jon Grange email to DL-ETHUSMTK SalesReps; DL-ETHUSMTK SalesMgmt (cc DL-ETHUSMTK Marketing) re Orthocord Sales YTD-121004	DMI 040886	Defendants’ Deposition Exhibit #28	401-403 Orthocord marketing	
<b>DTEX-1023</b>	Mark Mooney email to Howe, J., Koyfman, I., Seppa, K., (cc Scanlon, M., Grange, J., Gilson, R.) re Orthocord comparisons to Ethicon Sutures	DMI 001183 – 001184	Defendants’ Deposition Exhibit #29		
<b>DTEX-1024</b>	Katie’s (Seppa) Current Projects (list), dated June 29, 2004	DMI 039571 – 039573	Defendants’ Deposition Exhibit #30	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1025</b>	Katie’s (Seppa) Current Projects (list), dated July 26, 2004	DMI 039560 – 039561	Defendants’ Deposition Exhibit #31	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1026</b>	Test Report for #2 Fiberwire MED2174	ARM 000699 – 000701	Defendants’ Deposition Exhibit #32	401-403 Arthrex cannot provide foundation for the cosntruction of the sutures that it tested, rendring the tests irrelevant.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1027</b>	Ethicon, Inc. Document Retention Policy	DMI 003507 – 003538	Defendants' Deposition Exhibit #34		
<b>DTEX-1028</b>	Lab Notebook issued to Mark Steckel, 2/6/1988, 14 pages	DMI 000374 – DMI 000387	Defendants' Deposition Exhibit #35		
<b>DTEX-1030</b>	Document entitled: "Suture Stiffness, A Comparison of Orthocord™ and Fiberwire™ suture," undated	DMI 001195 – 001203	Defendants' Deposition Exhibit #39	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1031</b>	Katherine R. Seppa memo to Mark Mooney (cc RDCF, I. Koyfman, S. Cook, R. Liebowitz)	DMI 40871 – 40873	Defendants' Deposition Exhibit #40	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1032</b>	Presentation slides: "Orthocord Management Design Review, Orthocord Feasibility Review, Orthocord on Anchors Concept Review"	DMI 039823 – 039841	Defendants' Deposition Exhibit #41	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1033</b>	Shawn Peniston email string to S. Cook regarding UHMWPE surface energy (tension)	DMI 040882	Defendants' Deposition Exhibit #46	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1034</b>	Video of Pearsalls' coating operation	N/A	Pearsalls Inspection, 01/11/2006		
<b>DTEX-1035</b>	Document titled: "The Ethicon Franchise and Ethicon Products Worldwide"	DMI 038175 – 038185	Defendants' Deposition Exhibit #50	401-403 Ethicon and Mitek marketing document irrelevant to infringement	
<b>DTEX-1037</b>	Presentation slides titled: "Orthocord Update," by Ethicon, Inc.	DMI 038133 – 038138	Defendants' Deposition Exhibit #53	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1038</b>	Presentation slides titled: "Orthocord Management Design Review," by Mitek & Ethicon	DMI 039647 – 039683	Defendants' Deposition Exhibit #54	401-403 Orthocord Research Mitek Motion in Limine#5	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1039</b>	Presentation slides titled: "Orthocord" (undated, color)	DMI 094378 – 094407	Defendants' Deposition Exhibit #55	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1040</b>	Section IV. Key Issues Affecting Results, of Monthly Status Report, by Andy McGowan	DMI 022326 – 022329	Defendants' Deposition Exhibit #57	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1043</b>	Document entitled: "Shoulder Marketing Plan 2003," by Tom Borg, Steve Muller	DMI 094085 – 094093	Defendants' Deposition Exhibit #61	401-403 Marketing document irrelevant to infringement	
<b>DTEX-1044</b>	Document entitled: "U.S. Shoulder Marketing Plan 2004," by Angela Lichty, Jon Grange, Doug George	DMI 094094 – 094104	Defendants' Deposition Exhibit #62	401-403 Marketing document irrelevant to infringement	
<b>DTEX-1049</b>	Lab Notebook issued to Mark Steckel [portion]	DMI 002605 – 002678	Defendants' Deposition Exhibit #75		
<b>DTEX-1050</b>	Lab Notebook No. 2209 issued to Mark Steckel [portion]	DMI 002269 – 002400	Defendants' Deposition Exhibit #81		
<b>DTEX-1051</b>	Lab Notebook No. 2210 issued to Mark Steckel	DMI 002401 – 002441	Defendants' Deposition Exhibit #82		
<b>DTEX-1054</b>	Brochure: "Ethicon synthetic absorbable sutures. Tailor-made to suit the task," Including new PANACRYL suture [color]	DMI 094414 – 094425	Defendants' Deposition Exhibit #109	401-403 Ehticon absorbable suture marketing document irrelevant to infringement	
<b>DTEX-1055</b>	Brochure: "Panacryl"	DMI 094429 – 094434	Defendants' Deposition Exhibit #110	401-403, Ethicon asbsorbable suture marketing doucment, irrelevant to infringement	
<b>DTEX-1065</b>	R. Skula letter to S. Soffen attaching Patent No. 5,314,446	ARM 24397 – 24406	Defendants' Deposition Exhibit #120		

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1066</b>	S. Soffen letter to R. Skula, 12/15/2003	ARM 24339	Defendants' Deposition Exhibit #121	401-403, 408 letter related to presuit discussions between the parties, not relevant to infringement.	
<b>DTEX-1067</b>	R. Skula letter to S. Soffen, 1/16/2004	ARM 24332 – 24333	Defendants' Deposition Exhibit #123	401-403, 408 letter related to presuit discussions between the parties, not relevant to infringement.	
<b>DTEX-1068</b>	Lab Notebook issued to Mark Steckel [portion]	DMI 000374 – 000387	Defendants' Deposition Exhibit #124		
<b>DTEX-1069</b>	S. Soffen letter to R. Skula, 1/9/2004	ARM 24336 – 24337	Defendants' Deposition Exhibit #125	401-403, 408 letter relat presuit discussions between the parties, not relevant to infringement.	
<b>DTEX-1070</b>	S. Soffen letter to R. Skula, 2/20/2004	ARM 24287 - 24291	Defendants' Deposition Exhibit #126	401-403, 408 letter related to presuit discussions between the parties, not relevant to infringement.	
<b>DTEX-1071</b>	Lab Notebook No. 2175 issued to Mark Steckel [portion]	DMI 002605 – 002678	Defendants' Deposition Exhibit #127		
<b>DTEX-1072</b>	R. Skula letter to S. Soffen, 3/4/2003	ARM 24285	Defendants' Deposition Exhibit #128	401-403, 408 letter related to presuit discussions between the parties, not relevant to infringement.	
<b>DTEX-1073</b>	S. Soffen e-mail to R. Skula, 6/29/2004	ARM 24283	Defendants' Deposition Exhibit #129		



TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1074</b>	S. Soffen email to R. Skula, 7/13/2004	ARM 25591	Defendants' Deposition Exhibit #130		
<b>DTEX-1075</b>	R. Skula e-mail to S. Soffen, 7/26/2004	ARM 25592 – 25593	Defendants' Deposition Exhibit #131		
<b>DTEX-1076</b>	S. Soffen e-mail to R. Skula, 8/7/2004	ARM 25594 – 25596	Defendants' Deposition Exhibit #132		
<b>DTEX-1077</b>	R. Skula e-mail to S. Soffen, 8/19/2004	ARM 25598 – 25600	Defendants' Deposition Exhibit #133		
<b>DTEX-1078</b>	Jonathan Howe memorandum to Orthocord DHF 2002-38 (cc C. Spivak, J. Grange, M. Scanlon, R. Forstadt, A. Tse, K. Seppa) regarding Stiffness Analysis: Violet Orthocord™ vs. Blue Fiberwire	DMI 001147 – 001153	Defendants' Deposition Exhibit #135	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1079</b>	K. Seppa e-mail string to I. Koyfman, J. Grange, M. Mooney, S. Cook, D. McDonald, N. O'Hara, R. Wintersteller (cc P. Stebbins, R. Gilson, E. Ray) regarding: Subjective Handling Data on OrthoCord	DMI 094256 – 094257	Defendants' Deposition Exhibit #136	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1080</b>	Document entitled: "Ethicon Corporate Product Characterization, Product Performance Evaluation, Final Study Report" regarding Orthocord* Blue, by K. Seppa	DMI 015592 – 015594	Defendants' Deposition Exhibit #137	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1081</b>	Design History File entitled: "Orthocord violet #2 size suture, volume III"	DMI 061623 – 062007	Defendants' Deposition Exhibit #138	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1083</b>	Presentation slides regarding Fiberwire sales, Market Strategy for Orthocord	DMI 094304 – 094338	Defendants' Deposition Exhibit #147	401-403 Orthocord maretting, irrelevant to infringement	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1085</b>	Presentation slides: "Commercial Plan Extremities," by Rick Gilson and Jon Grange	DMI 095173 - 095311	Defendants' Deposition Exhibit #151	401-403, marketing irrelevant to infringement	
<b>DTEX-1087</b>	Document entitled: "Process/Product Development Strategy, Project Violet OrthoCord," by I. Koyfman	DMI 082158 - 082164	Defendants' Deposition Exhibit #165	401-403, Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1088</b>	White Paper entitled: "Corporate Product Characterization, Product Performance Evaluation Group, OrthoCord (Mitek), Revised Final Test Report," by K. Seppa	DMI 081409 - 081413	Defendants' Deposition Exhibit #166	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1089</b>	White Paper entitled: "Corporate Product Characterization, Product Performance Evaluation Group, OrthoCord (Mitek), Final Test Report," by L. Vailhe, Requestor - Ilya Koyfman	DMI 081405 - 081408	Defendants' Deposition Exhibit #167	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1090</b>	Report entitled: "OrthoCord Suture Development, Interim Report," by I. Koyfman, H. Pokropinski	DMI 039446 - 039470	Defendants' Deposition Exhibit #168	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1091</b>	M. Mooney e-mail string to Renay Lawson regarding attached Completion Report for the Development of Violet Orthocord	DMI 094157 - 094169	Defendants' Deposition Exhibit #169	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1092</b>	Table entitled: "Process Failure Modes and Effect Analysis (pFMEA)," Orthocord Cornelia Process, by Andrew Brackett, 11/18/2005	DMI 079770 - 079780	Defendants' Deposition Exhibit #170	401-403 Orthocord Research Mitek Motion in Limine#5	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1093</b>	I. Koyfman memo to S. Cook, M. Mooney (cc Dr. I. Nozad, E. Miller, K. Seppa, RDCF) regarding: Justification for the Bunching Requirements of Orthocord Braided Suture, 3/17/2004	DMI 081183 – 081187	Defendants' Deposition Exhibit #171	401-403 Orthocord Research Mitek Motion in Limine#5	
<b>DTEX-1095</b>	R. Skula letter to S. Soffen, 12/1/2003	ARM 24397	Defendants' Deposition Exhibit #181		
<b>DTEX-1098</b>	[Physical]: Samples of FiberWire (blue) and Tiger Wire (white/black), retained by Mr. Saber	N/A	Defendants' Deposition Exhibit #192		
<b>DTEX-1099</b>	U.S. Patent No. 5,312,437, "Absorbable Coatings Composition and Suture Coated Therewith," Matthew E. Hermes et al., Inventors	N/A	Defendants' Deposition Exhibit #196	401-403 No expert witness considered this patent, and therefore Arthrex should not be permitted to introduce it.	
<b>DTEX-1100</b>	U.S. Patent No. 5,147,383, "Suture Coated with a Polyvinyl Ester," by Rao S. Bezwada et al., Inventors	N/A	Defendants' Deposition Exhibit #202	401-403 Irrelevant to infringement issues because it does not discuss Arthrex's FiberWire product.	
<b>DTEX-1101</b>	U.S. Patent No. 5,089,013, "Suture Coated with a Polyvinyl Ester," Rao S. Bezwada et al., Inventors	N/A	Defendants' Deposition Exhibit #203	401-403 Irrelevant to infringement issues because it does not discuss Arthrex's FiberWire product.	
<b>DTEX-1102</b>	U.S. Patent No. 4,532,929, "Dry Coating of Surgical Filaments," Frank V. Mattei et al., Inventors	N/A	Defendants' Deposition Exhibit #204	401-403 Irrelevant to infringement issues because it does not discuss Arthrex's FiberWire product.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1103</b>	Document entitled: "Completion Report for Protocol #ST-98053, Protocol for the Development of NVC Coating on Panacryl™ Suture Material," by Jerry Fischer & Howard Scalzo	DMI 060231 – 060234	Defendants' Deposition Exhibit #205	401-403 Ethicon document discussing an absorbable suture, irrelevant to infringement issues because it does not discuss Arthrex's FiberWire	
<b>DTEX-1104</b>	Presentation slides: Orthocord Promotional Material	DMI 094378 and 94394	Defendants' Deposition Exhibit #206	401-403 Incomplete document, Orthocord Research & Marketing Motion in Limine#5	
<b>DTEX-1105</b>	Document entitled: "Wound Closure Manual," Ethicon, Ch. 2, P.11, front and back covers	N/A	Defendants' Deposition Exhibit #207	401-403 Ethicon document discussing an absorbable suture, irrelevant to infringement issues because it does not discuss Arthrex's FiberWire	
<b>DTEX-1106</b>	Document entitled: "FiberWire – Important Product Information," in English, German, French, Italian & Spanish, 2 pgs.	N/A	Defendants' Deposition Exhibit #208		
<b>DTEX-1107</b>	Dr. David Brookstein's invoices to Mr. Erich Falke for professional services	DB DB000163 - 000167	Defendants' Deposition Exhibit #209	401-403 Expert invoice, not admissible	
<b>DTEX-1108</b>	Document regarding Gordon Laboratory Seminar Series, Presenters/topics for April 28th through July 6th, attaching abstracts	DB 000029 - 000036	Defendants' Deposition Exhibit #210		

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1109</b>	Study: George T. Rodeheaver et al., "Knotting and Handling Characteristics of Coated Synthetic Absorbable Sutures," Academic Press (1983) 525-530	N/A	Defendants' Deposition Exhibit #211	802/901 Third-party document, no foundation regarding publication, and hearsay statements by third-party.	
<b>DTEX-1110</b>	Paper: "Standard Test Method for Tensile Properties of Plastics," ASTM International, Designation: D 638 – 03	DB 000001 - 000015	Defendants' Deposition Exhibit #213		
<b>DTEX-1111</b>	Photographs, graphs of test results and discussion of Pearsalls testing procedures	DB 000168 - 000187	Defendants' Deposition Exhibit #214		
<b>DTEX-1112</b>	Curriculum Vitae of Debi Prasad Mukherjee, Ph.D.	N/A	Mukherjee Expert Report (3/3/06) Exhibit #2	401-403 802 Expert c.v., not relevant.	
<b>DTEX-1114</b>	Investigation, Project No. CBE, regarding PET / PTFE Composite, dated 2/2/1989	DMI 002638	Mukherjee Expert Report (3/3/06) Exhibit #9		
<b>DTEX-1115</b>	Lab Notebook No. 2175 issued to Mark Steckel, 2/29/1988, [portion]	DMI 002605, DMI 002637, DMI 002674	Mukherjee Responsive Expert Report (3/24/06) Exhibit #7		
<b>DTEX-1116</b>	U.S. Patent No. 4,994,074, "Copolymers of Epsilon-Caprolactone for Suture Coatings," Raos Bezwada, et al., Inventors	N/A	Mukherjee Responsive Expert Report (3/24/06) Exhibit #12	401-403 Irrelevant to infringement issues because it does not discuss Arthrex's FiberWire product.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1117</b>	Article entitled: "Knotting and Handling Characteristics of Coated Synthetic Absorbable Sutures," by George T. Rodeheaver, PhD., et al, 1/6/1983, pp. 525 - 528	N/A	Mukherjee Responsive Expert Report (3/24/06) Exhibit #13	401-403 802 802/901 Third-party document, no foundation regarding publication, and hearsay statements by third-party; Duplicative of DTEX1109	
<b>DTEX-1119</b>	Presentation slides: Product Information Sheet, Orthocord	DMI 094378 and 094394	Mukherjee Responsive Expert Report (3/24/06) Exhibit #15	401-403 incomplete document duplicative of DTEX 1104.	
<b>DTEX-1120</b>	Interim Report, Orthocord Suture Development, 9/2/2003	DMI039421; DMI039438	Mukherjee Responsive Expert Report (3/24/06) Exhibit #17	401-403 Orthocord development document, irrelevant to infringement, Motion in Limine#5	
<b>DTEX-1121</b>	Arthrex Test Report Summary and Sign-Off Sheet, 02/16/2004	ARM 000699 - 000701	Mukherjee Responsive Expert Report (3/24/06) Exhibit #19	401-403 Arthrex has on foundation to prove the construction of the samples that it tested.	
<b>DTEX-1122</b>	Report, Comparative Suture Testing, Center For Tribology, 3/23/2006	N/A	Mukherjee Responsive Expert Report (3/24/06) Exhibit #20	802 Arthrex expert report.	
<b>DTEX-1123</b>	Article entitled: "Tensile Strength and Knot Security of Surgical Suture Materials," John B. Herrmann, M.D., 4/1971	N/A	Mukherjee Responsive Expert Report (3/24/06) Exhibit #22	802/901 Third-party hearsay document, no foundation for its source or publication.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1124</b>	U.S. Patent No. 4,983,180, "Coated Sutures Exhibiting Improved Knot Security," Tatsuya Kawai et al., Inventors	N/A	Mukherjee Responsive Expert Report (3/24/06) Exhibit #23	401-403 Irrelevant to infringement, does not discuss FiberWire product.	
<b>DTEX-1125</b>	U.S. Patent No. 4,649,920, "Coated Suture," Joseph D. Rhum, Inventor	N/A	Mukherjee Responsive Expert Report (3/24/06) Exhibit #24	401-403 Irrelevant to infringement, does not discuss FiberWire product.	
<b>DTEX-1126</b>	Table entitled: "Pearsalls Sutures Knot Pull Results"	N/A	Mukherjee Responsive Expert Report (3/24/06) Exhibit #25		
<b>DTEX-1127</b>	Modern Plastics Encyclopedia Values, "Properties of Polyethylene Terephthalate /PET," and "Nylon 66 Molding Compound," Roger D. Corneliussen, 2002, 4 pp.	N/A	Mukherjee Responsive Expert Report (3/24/06) Exhibit #26		
<b>DTEX-1128</b>	Arthrex Product Information, FiberStick and TigerStick	N/A	Mukherjee Responsive Expert Report (3/24/06) Exhibit #27		
<b>DTEX-1129</b>	Product Specification, Pearsall Sutures, Kryston Silkworm (91) various knot strengths, 1/1991	PR 08400 - 08403	Mukherjee Responsive Expert Report (3/24/06) Exhibit #29	401-403 Pearsalls fishing line development document.	
<b>DTEX-1130</b>	Arthrex Brochure: "Revolutionizing Orthopaedic Surgery, FiberWire: Braided Polyblend Suture," 2004	ARM 10564 – 10573	Mukherjee Responsive Expert Report (3/24/06) Exhibit #30		

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1131</b>	International Application Published Under PCT, "Composite Surgical Sutures," A61L 17/00, WO 86/00020, 1/3/1986	DMI 000150 - 000179	Mukherjee Rebuttal Expert Report (4/13/06) Exhibit #9		
<b>DTEX-1132</b>	Lab Notebook issued to Mark Steckel [portion]	DMI 002605 and 002618	Mukherjee Rebuttal Expert Report (4/13/06) Exhibit #11		
<b>DTEX-1133</b>	U.S. Patent No. 6,716,234 B2, "High Strength Suture Material," R. Donald Grafton, et al., Inventors	N/A	Mukherjee Rebuttal Expert Report (4/13/06) Exhibit #12	403 Arthrex's Patent related to FiberWire	
<b>DTEX-1134</b>	Lab Notebook No. 2175 issued to Mark Steckel, portion	DMI 002605 and 002368	Mukherjee Rebuttal Expert Report (4/13/06) Exhibit #17		
<b>DTEX-1135</b>	Arthrex Brochure, "Revolutionizing Orthopaedic Surgery, FiberWire: Braided Composite Suture," 2005	N/A	Arthrex Brief on Claim Construction, 8/11/2006, Exhibit #2		
<b>DTEX-1137</b>	Arthrex FiberWire brochure, 2005	N/A	Defendants' Motion for Summary Judgment (8/11/06), Exhibit 2	Duplicative of DTEX 1137.	
<b>DTEX-1138</b>	Memo, [Untitled, Redacted], 2 pages	DMI 039558 - 039559	Defendants' Motion for Summary Judgment (8/11/06), Exhibit 5	401-403 Orthocord Research document, irrelevant to infringement, Motion in Limine#5.	
<b>DTEX-1139</b>	Presentation slides: ORTHOCORD Update, 15 July 2004	DMI 038133, DMI 038137	Defendants' Motion for Summary Judgment (8/11/06), Exhibit 6	401-403 Orthocord marketing document, incomplete document	



TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1140</b>	Arthrex About Us webpage, 8/10/06, 1 page	N/A	Defendants' Motion for Summary Judgment (8/11/06), Exhibit 16		
<b>DTEX-1141</b>	Johnson & Johnson Gateway: Depuy Mitek, Inc., A Johnson & Johnson company, web page, 8/10/06, 2 pages	N/A	Defendants' Motion for Summary Judgment (8/11/06), Exhibit 17		
<b>DTEX-1142</b>	About ETHICON webpage, 1 page, 8/10/06	N/A	Defendants' Motion for Summary Judgment (8/11/06), Exhibit 18		
<b>DTEX-1143</b>	Lab Notebook issued to Mark Steckel [portion]	DMI 002605, DMI 002635 – 002638, DMI 002666	Defendants' Motion for Summary Judgment (8/11/06), Exhibit 21		
<b>DTEX-1144</b>	Invoice list, "Based upon QAD information as of 6/10/05"	ARM 24165-A	Defendants' Motion for Summary Judgment (8/11/06), Exhibit 27		
<b>DTEX-1145</b>	DePuy Mitek's Privileged Document List, 1/25/2006, 5 pages	N/A	Defendants' Reply to Response to Motion for Summary Judgment (9/15/06), Exhibit#7	401-403 Privilege Log, irrelevant to infringement.	
<b>DTEX-1146</b>	U.S. Patent No. 4,074,713, "Poly(N-acetyl-D Glucosamine) Products," Richard Carl Capozza, Inventor	N/A	Defendants' Reply to Response to Motion for Summary Judgment (9/15/06), Exhibit#8	401-403 not produced during discovery, no expert to discuss Motion in Limine#3.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1147</b>	U.S. Patent No. 4,074,366, "Poly(N-acetyl-D Glucosamine) Products," Richard Carl Capozza, Inventor	N/A	Defendants' Reply to Response to Motion for Summary Judgment (9/15/06), Exhibit#9	401-403 not produced during discovery, no expert to discuss, Motion in Limine#3.	
<b>DTEX-1148</b>	Physical exhibit - Mixed bag of coated and uncoated Fiberwire suture tested by Dr. Gitis in March 2006	CETR 0075	N/A		
<b>DTEX-1149</b>	Article, Knotting and Handling Characteristics of Coated Synthetic Absorbable Sutures, George T. Rodeheaver, Ph.D., et al, 1/6/1983	CETR 0110 – 0114	N/A	802/901 Third-party document, no foundation regarding publication, and hearsay statements by third-party. Duplicative of DTEX1109.	
<b>DTEX-1150</b>	Article, Knot Security in Simple Sliding Knots and Its Relationship to Rotator Cuff Repair: How Secure Must the Knot Be? Stephen S. Burkhart, et al, 3/2000	CETR 0115 – 0120	N/A	802/901 Third-party document, no foundation regarding publication, and hearsay statements by third-party.	
<b>DTEX-1151</b>	Article, Mechanical performance of knots using braided and monofilament absorbable sutures, Daniel C. Schubert, MD, et al, 12/2002	CETR 0121 - 0125	N/A	802/901 Third-party document, no foundation regarding publication, and hearsay statements by third-party.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1152</b>	Article, Monocryl suture, a new ultra-pliable absorbable monofilament suture, 1/26/1995	CETR 0126 - 0133	N/A	802/901 Third-party document, no foundation regarding publication, and hearsay statements by third-party.	
<b>DTEX-1153</b>	Report, Tribometrological Studies in Bioengineering, 6/2004	CETR 0134 - 0144	N/A		
<b>DTEX-1154</b>	Report, Precision Experimental Measurements of Viscoelastic Properties of Industrial Polymers, 10/2003	CETR 0145 - 0146	N/A		
<b>DTEX-1155</b>	Report, Evaluation of Elastic Properties of Elastomer Micro-Springs with CETR Micro-Tribometer, 8/18/1998	CETR 0147 - 0148	N/A	401-403 802 Irrelevant to infringement. No foundation regarding publication, third-party document.	
<b>DTEX-1156</b>	Report, Micro and Nano Hardness Measurements on UMT Testers	CETR 0149 - 0150	N/A	401-403 802 Irrelevant to infringement. No foundation regarding publication, third-party document.	
<b>DTEX-1157</b>	Report, Comprehensive Materials Testing for Mechanical and Tribological Properties	CETR 0151 - 0154	N/A	802 Irrelevant to infringement. No foundation regarding publication, third-party document.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1158</b>	User's Manual, CETR UMT-2 – Multi-Specimen Test System, Version 1.01, 9/29/2004	CETR 0155 - 0243	N/A401-403/802 Irrelevant to infringement. No foundation regarding publication, third-party document.	401-403/802 Irrelevant to infringement. No foundation regarding publication, third-party document.	
<b>DTEX-1159</b>	Physical sample - uncoated FiberWire suture tested by Dr. Gitis in March 2006	ARM 25904	N/A		
<b>DTEX-1160</b>	Marketing Product Initiation (MPI) form No. 670 by Rob Sluss, 5/21/2003	ARM 3584	DePuy Mitek's Deposition Exhibit #53		
<b>DTEX-1161</b>	MPI form No. 435 by D. Grafton, 9/28//2000	ARM 000933	DePuy Mitek's Deposition Exhibit #54		
<b>DTEX-1162</b>	Subsequent Design Review Meeting minutes re MPI 670, 12/11/2003	ARM 3580	DePuy Mitek's Deposition Exhibit #55		
<b>DTEX-1163</b>	Product Launch Form for MPI 435, Part No. AR-7200, 10/19/2000	ARM 3651	DePuy Mitek's Deposition Exhibit #56		
<b>DTEX-1164</b>	Arthrex white paper – a collection of scientific data from testing FiberWire prior to its product launch, 4/2001	ARM 10614 – 10619	DePuy Mitek's Deposition Exhibit #60	401-403/802 Statements by third-party. No witness to discuss the relevance of the document.	
<b>DTEX-1165</b>	Arthrex FiberWire brochure (undated)	ARM 10564 – 10573	DePuy Mitek's Deposition Exhibit #62	Unreadable	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1166</b>	Original and initial submission to the FDA	ARM 001888 – 002078		401-403 802 901 FDA submission which includes third-party hearsay documents that lack foundation, and information irrelevant to infringement	
<b>DTEX-1167</b>	Arthrex Product Catalog, 2005	ARM 18334 – 18614	DePuy Mitek's Deposition Exhibit #101		
<b>DTEX-1168</b>	Technical File, (Design History File) Arthrex Fiber Wire™ Invasive, Implantable Device, Class IIb (Rule 8), Volume 1 of 2, 7/17/2001	ARM 8454 – 8846	DePuy Mitek's Deposition Exhibit #102	401-403 802 901 FDA submission which includes third-party hearsay documents that lack foundation, and information irrelevant to infringement	
<b>DTEX-1170</b>	Production Process, R.K. Manufacturing Corp.	RK 00688	DePuy Mitek's Deposition Exhibit #104		
<b>DTEX-1171</b>	Letter Agreement between Arthrex and R.K. Manufacturing Corp. signed as agreed to and accepted on 12/12/2002, 10/14/2002	RK 00001	DePuy Mitek's Deposition Exhibit #105		
<b>DTEX-1172</b>	Design History File for FiberWire (Volume Two)	ARM 000702 - 000866	DePuy Mitek's Deposition Exhibit #116	401-403 802 901 Design file hisotry that contains third-party hearsay documents that lack foundation, and information irrelevant to infringement	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1173</b>	Market Product Initiation form (Rev. 4), signed RS on 9/25/2001, 6/6/2003	ARM 7286 – 7287	DePuy Mitek's Deposition Exhibit #132		
<b>DTEX-1174</b>	Design History File: FiberWire (Volume One), 3/4/2001	ARM 000913 - 001139	DePuy Mitek's Deposition Exhibit #138	401-403 802 901 FDA submission which includes third-party hearsay documents that lack foundation, and information irrelevant to infringement	
<b>DTEX-1175</b>	Engineering Meeting Notes – FiberWire design review; Attendees: R. Schmieding, D. Grafton, D. Donnemeyer, C. Morgan, S. Soffen, G. Guederian, B. Marceau, B. Hackett, P. Dreyfuss, T. Hoover, S. Price, B. Benavitz, P. O'Quinn, V. Brown, 2/15-16/2001	ARM 8607	DePuy Mitek's Deposition Exhibit #218		
<b>DTEX-1176</b>	Pearsalls Sutures – Fiberwire Process Flowchart, 6/29/2001	ARM 002554	DePuy Mitek's Deposition Exhibit #281		
<b>DTEX-1177</b>	[Physical] Pearsalls Ltd. US2 FiberWire M/C state scoured sample	PR 008388	DePuy Mitek's Deposition Exhibit #282		
<b>DTEX-1178</b>	[Physical] Pearsalls Ltd. US2 M/C state before being scoured	PR 008387	DePuy Mitek's Deposition Exhibit #283		
<b>DTEX-1179</b>	[Physical] Pearsalls Ltd. US2 FiberWire M/C state scoured/dyed sample	PR 008389	DePuy Mitek's Deposition Exhibit #284		
<b>DTEX-1180</b>	[Physical] Pearsalls Ltd. US2 FiberWire M/C state dye/coated sample	PR 008390	DePuy Mitek's Deposition Exhibit #285		

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1181</b>	[Physical] Braided polyester suture 2B-F/W, 5 m. Length P505T2 Suture Coated	PR 008386	DePuy Mitek's Deposition Exhibit #286		
<b>DTEX-1182</b>	Pearsalls Certificate of Conformity issued by K. Young to Arthrex, 3/26/2004	ARM 22429	DePuy Mitek's Deposition Exhibit #314		
<b>DTEX-1183</b>	Fiberwire Acceptance Criteria [table] [undated]	ARM 22392	DePuy Mitek's Deposition Exhibit #315		
<b>DTEX-1184</b>	Arthrex Test Report Summary and Sign-Off Sheet for #2 Fiberwire MED2174 Coated and Uncoated USIPG Dyed, 3 pgs, 2/16/2004	N/A	DePuy Mitek's Deposition Exhibit #343	401-403 Arthrex has not witness to provide foundation regarding the construction of the samples.	
<b>DTEX-1185</b>	[Physical] – Sutures retained by Mr. Falke	N/A	DePuy Mitek's Deposition Exhibit #235		
<b>DTEX-1186</b>	[Physical] – Sutures retained by Mr. Falke	N/A	DePuy Mitek's Deposition Exhibit #236		
<b>DTEX-1187</b>	[Physical] – Sutures retained by Mr. Falke	N/A	DePuy Mitek's Deposition Exhibit #237		
<b>DTEX-1188</b>	[Physical] – Suture in plastic bag, 6/14/2006	N/A	DePuy Mitek's Deposition Exhibit #364		
<b>DTEX-1189</b>	[Physical] – Suture in plastic bag, 6/14/2006	N/A	DePuy Mitek's Deposition Exhibit #365		
<b>DTEX-1190</b>	[Physical] – Suture Sample, 6/21/2006	CETR 75	DePuy Mitek's Deposition Exhibit #388		
<b>DTEX-1191</b>	[Physical] – Suture Samples, 6/21/2006	ARM 25903	DePuy Mitek's Deposition Exhibit #389		

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1192</b>	[Physical] – Suture Sample, coated, 6/21/2006	ARM 25904	DePuy Mitek's Deposition Exhibit #390		
<b>DTEX-1193</b>	FedEx tracking sheet showing shipment from Yien Saechao to Scott Giraud, 4/10/2006	CETR 54 - 57	DePuy Mitek's Deposition Exhibit #391		
<b>DTEX-1194</b>	Pearsalls Certificate of Conformity for Blue Fiber Wire, U.S. Size 2, issued by S. Littlejohns, 2/17/2006	PR 08457	DePuy Mitek's Deposition Exhibit #399		
<b>DTEX-1195</b>	Pearsalls Certificate of Conformity for Blue Fiber Wire Uncoated, U.S. Size 2, 2/17/2006	PR 08456	DePuy Mitek's Deposition Exhibit #400		
<b>DTEX-1196</b>	CETR, UMT-2 – Multi-Specimen Test System, User's Manual, Version 1.01, 9/29/2004	CETR 0155 - 0243	DePuy Mitek's Deposition Exhibit #416	401-403 802 401-403/802 Irrelevant to infringement. No foundation regarding publication, third-party document. Duplicative of DTEX1158.	
<b>DTEX-1198</b>	Application Note on Micro and Nano Hardness Measurements on UMT Testers	CETR 0149 - 0150	DePuy Mitek's Deposition Exhibit #418	401-403 802 901 401-403 802 Irrelevant to infringement. No foundation regarding publication, third-party document. Duplicative of DTEX1198.	



TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1199</b>	Paper: "Tribometrological Studies in Bioengineering," by Dr. N. Gitis, Session 61, Proc. of the 2004 SEM X Int'l. Cong. And Expos. in Experimental and Applied Mechanics, Jun 7-10, Costa Mesa, CA	CETR 0134 - 0144	DePuy Mitek's Deposition Exhibit #419	Duplicative of DTEX1199.	
<b>DTEX-1200</b>	D.L. Lawson letters to S. Tamburo attaching two Certificates of Conformity for Pearsalls Braided Fiberwire, 2/17/2006	PR 08455 - 08460	DePuy Mitek's Deposition Exhibit #435		
<b>DTEX-1201</b>	Pearsalls standard production processing documents, Jan-Feb 2006	PR 08461 - 08473	DePuy Mitek's Deposition Exhibit #436		
<b>DTEX-1202</b>	Pearsalls Test Methods forms for several procedures, 1997-2003	PR 08433 - 08454	DePuy Mitek's Deposition Exhibit #437		
<b>DTEX-1203</b>	[Physical] – 5m length of suture – FibreWire suture from batch 28893 that is part of a 10m retention sample that is saved for each production batch (Retained by Mr. Bonella)	N/A	DePuy Mitek's Deposition Exhibit #438		
<b>DTEX-1204</b>	Correction of ARM 24165, Financial documents: Forecasts and fiscal budget info. Forecast Maintenance Documents, 8/24/2005	ARM 24165A	N/A		
<b>DTEX-1205</b>	RK Manufacturing Processes Flowchart	RK 01698	N/A		
<b>DTEX-1206</b>	Pearsalls Ltd. Documents (development trial & summary docs), 11/25/96, 12/10/96	PR 08313 - 08315	N/A	401-403 Pearsalls document related to developemtal of product not at issue in the case.	
<b>DTEX-1207</b>	Documents re indemnification agreement between Arthrex and Pearsalls	PR 8315A - 8322	N/A	401-403 Indemnification agreement, not relevant.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1208</b>	Documents produced by Pearsall during the UK Inspection, 1/19/2006	PR 08325 - 08385	N/A		
<b>DTEX-1209</b>	Pearsalls Ltd. Documents, 1/25/2006	PR 08392 - 08432	N/A	401-403 802 901 collection of unrelated documents, some third-party documents that are hearsay and lack foundation, documents related to fishing line products that are not at issue in the case.	
<b>DTEX-1210</b>	Indemnification correspondence	PR 8315A – 8315C	N/A		
<b>DTEX-1211</b>	Pearsalls Ltd.'s Test Reports	PR 8433 - 8454	N/A		
<b>DTEX-1212</b>	Documents responsive to Sal's e-mail dated 4/13/2006 including Pearsalls and CETR documents., 4/15/2006	PR 08455 – 08460; CETR 0001 - 0057	N/A	401-403 Collection of unrelated documents, some documents are admissible, but the collection is not, and includes third-party documents that are hearsay and lack foundation.	
<b>DTEX-1214</b>	Arthrex Product Catalog (2005)	ARM 18334 – 18614	N/A		
<b>DTEX-1215</b>	Brochure: "FiberWire: Orthopedic Composite Suture"	ARM 10574 - 10613	N/A	Collection of unrelated documents	
<b>DTEX-1216</b>	Brochure: "FiberWire: Braided Polyblend Suture"	ARM 10564 - 10573	N/A		

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1217</b>	Report: "FiberWire, Collective Summary of Strength and Biocompatibility Testing Data Comparisons of Polyester and Polyblend Sutures"	ARM 10614 - 10619	N/A	401-403 802 Document contains third-party hearsay, no witness to explain its relevance, not relevant to infringement.	
<b>DTEX-1218</b>	Arthrex Product Catalog 2000-2001	ARM 9473 - 9665	N/A		
<b>DTEX-1219</b>	Arthrex Product Catalog 2002	ARM 9666 - 9881	N/A		
<b>DTEX-1220</b>	Arthrex Product Catalog 2003/2004	ARM 9882 - 10134	N/A		
<b>DTEX-1221</b>	Arthrex Product Catalog (Video Edition)	ARM 10135 - 10167	N/A		
<b>DTEX-1222</b>	Arthrex Product Catalog	ARM 10168 - 10228	N/A		
<b>DTEX-1223</b>	Brochure: "Orthocord Suture"	ARM 003048 - 003049	N/A		
<b>DTEX-1224</b>	Brochure: FiberWire: Braided Polyblend Suture	ARM 000298 - 000307	N/A	Duplicate.	
<b>DTEX-1225</b>	E-Mail from S. Soffen to R. Skula, 6/29/2004	ARM 000688	N/A	Duplicate of DTEX1073.	
<b>DTEX-1226</b>	E-Mail from S. Soffen to R. Skula, 2/13/2004	ARM 000689	N/A	401-403, 408 Document related to pre-suit discussions between the parties, not infringement.	
<b>DTEX-1227</b>	E-Mail from S. Soffen to R. Skula, 2/4/2004	ARM 000690	N/A	401-403, 408 Document related to presuit discussions between the parties, not infringement.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1228</b>	Letter from R. Skula to S. Soffen, 3/4/2003	ARM 000692	N/A	401-403 Rule 408 Document related to pre-suit discussions between the parties, not relevant to infringement.	
<b>DTEX-1229</b>	Letter from S. Soffen to R. Skula, 2/20/2004	ARM 000693 – 00094	N/A	401-403 408 Document related to presuit discussion between the parties, not relevant to infringement.	
<b>DTEX-1230</b>	Letter from S. Soffen to R. Skula, 12/15/2003	ARM 000695	N/A	401-403, 408 Document related to presuit discussion between the parties, not relevant to infringement.	
<b>DTEX-1231</b>	Letter from R. Skula to S. Soffen, 1/16/2004	ARM 000696 – 000697	N/A	401-403, 408 Document related to presuit discussion between the parties, not relevant to infringement.	
<b>DTEX-1232</b>	Letter from R. Skula to S. Soffen, 12/1/2003	ARM 000698	N/A		
<b>DTEX-1233</b>	Design History File, FiberWire (Volume Two)	ARM 000702 – 000906	N/A	401-403 802, 901 Collection of documents including third-party hearsay that lacks foundation, and information irrelevant to infringement.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1234</b>	Design History File, FiberWire (Volume One)	ARM 000913 – 000998	N/A	401-403 802, 901 Collection of documents including third-party hearsay that lacks foundation, and information irrelevant to infringement.	
<b>DTEX-1236</b>	Photo of FiberWire Spool – US 2 M/C State – uncoated suture	ARM 25590	N/A	401-403 Produced after fact discovery closed, depriving Mitek of the opportunity to take fact discovery from witnesses regarding their construction.	
<b>DTEX-1237</b>	Photo of FiberWire Spool – US 2 Coated Med 2174 Batch 03/26/16122 - coated suture	ARM 25451	N/A	401-403 Produced after fact discovery closed, depriving Mitek of the opportunity to take fact discovery from witnesses regarding their construction.	
<b>DTEX-1238</b>	Photo of FiberWire Spool – “from Tara – uncoated from spool identified”	ARM 25452	N/A	401-403 Produced after fact discovery closed, depriving Mitek of the opportunity to take fact discovery from witnesses regarding their construction.	
<b>DTEX-1239</b>	CD – 2005 Product Catalog	ARM 25813	N/A		

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1241</b>	Curriculum Vitae of Norm V. Gitis	N/A	Responsive Expert Report of Dr. Debi Prasad Mukherjee Exhibit #20, Appendix 2a.		
<b>DTEX-1242</b>	Curriculum Vitae of John F. Witherspoon	N/A	Arthrex's Expert Report of John F. Witherspoon (3/03/2006), Exhibit A	401-403 802 CV of objectionable witness, Mitek Motion in Limine#4.	
<b>DTEX-1243</b>	Curriculum Vitae of Robert T. Burks, M.D.		Arthrex's Expert Report of Robert T. Burk, M.D. (3/24/2006), Exhibit #1		
<b>DTEX-1245</b>	Sterilization Documents: "Certificate of Processing Ethylene Oxide Treatment at Sterile Systems," 3/14/2006	CETR 0001 - 0037	N/A	802 Third-party hearsay.	
<b>DTEX-1246</b>	FedEx Receipt: 4/10/2006	CETR 54	N/A		
<b>DTEX-1247</b>	FedEx Receipt: 4/10/2006	CETR 55	N/A		
<b>DTEX-1248</b>	FedEx Receipt: 4/10/2006	CETR 56	N/A		
<b>DTEX-1249</b>	FedEx Receipt: 4/10/2006	CETR 57	N/A		
<b>DTEX-1250</b>	Article: "Precision Experimental Measurements of Viscoelastic Properties of Industrial Polymers," 10/7/2003	CETR 0058 - 0059	N/A	Duplicative.	
<b>DTEX-1251</b>	Report, Tribometrological Studies in Bioengineering, 6/2004	CETR 0060 - 0070	N/A	Duplicative.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1252</b>	Brochure: "Comprehensive Materials Testing for Mechanic and Tribological Properties: UMT Series Testers"	CETR 0071 - 0074	N/A	802 Irrelevant to infringement. No foundation regarding publication, third-party document.	
<b>DTEX-1253</b>	Graphs, Force-strain data for uncoated sutures during pliability tests	CETR 0076 - 0079	DePuy Mitek's Deposition Exhibit #382	Not best copy, lacks color.	
<b>DTEX-1254</b>	5 m. Length P505T2 Suture Coated [Physical]	PR 008386	DePuy Mitek's Deposition Exhibit #286		
<b>DTEX-1257</b>	US 2 Fiberwire M/C State (Scoured/ Dyed) [Physical]	PR 008389	DePuy Mitek's Deposition Exhibit #284		
<b>DTEX-1258</b>	US 2 Fiberwire M/C State (Dyed/ Coated) [Physical]	PR 008390	DePuy Mitek's Deposition Exhibit #285		
<b>DTEX-1260</b>	Production Procedure: Pearsalls Sutures, "Pad Stretching and Coating of Fiberwire/Tigerwire/Loops," 7/18/2005	PR 08323	N/A		
<b>DTEX-1261</b>	Flowchart: Pearsalls Sutures, "Fiberwire/Tigerwire Flowchart," 8/05/2005	PR 08324	N/A		
<b>DTEX-1262</b>	Table: Table 1, Approved FiberWire Constructs, 9/27/2004	PR 08382	N/A		
<b>DTEX-1263</b>	Chart: FiberWire Chart, 11/11/2002	PR 08383	N/A		
<b>DTEX-1264</b>	Chart: "Arthrex Products Matrix of Label Product & Development Codes," B. Hallett, November 2005	PR 08384 - 08385	N/A		
<b>DTEX-1265</b>	Letter: to Salvatore Tamburo from D. L. Lawson, 2/17/2006	PR 08455	N/A		

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1266</b>	Letter: "Certificate of Conformity," Blue Fiber Wire Uncoated, Issued by S. Littlejohns, 2/17/2006	PR 08456	N/A		
<b>DTEX-1267</b>	Letter: "Certificate of Conformity," Blue Fiber Wire, Issued by S. Littlejohns, 2/17/2006	PR 08457	N/A		
<b>DTEX-1268</b>	Letter: to Salvatore Tamburo from D. L. Lawson, "Samples: No Commercial Value," 2/17/2006	PR 08458	N/A		
<b>DTEX-1269</b>	Letter: to Salvatore Tamburo from D. L. Lawson, "Samples: No Commercial Value," 2/17/2006	PR 08459	N/A		
<b>DTEX-1270</b>	DHL Air Waybill Receipt, 2/17/2006	PR 08460	N/A		
<b>DTEX-1271</b>	Record: Pearsalls Sutures Works Order, 1/23/2006	PR 08461 - 08462	N/A		
<b>DTEX-1272</b>	Record: Pearsalls Sutures Blue Singles/Fiberwire Process Record Only to be Dyed on LC3 Programme No. 11	PR 08463	N/A		
<b>DTEX-1273</b>	Record: Pearsalls Sutures Bates Machine Med 2174 Solids Check, 9/2/2006	PR 08464	N/A		
<b>DTEX-1274</b>	Record: Pearsalls Sutures Old Bates Machine Line Clearance Record Sheet, 9/2/2006	PR 08465	N/A		
<b>DTEX-1275</b>	Record: Pearsalls Sutures Bates Machine – MED 2174 Process Record for Products Requiring 2 Passes, 7/19/2004	PR 08466	N/A		
<b>DTEX-1276</b>	Record: Pearsalls Sutures Fault Detect Record	PR 08467	N/A		
<b>DTEX-1277</b>	Memo: "Certificate of Conformity," Blue Fiber Wire, Issued by S. Littlejohns, 2/14/2006	PR 08468	N/A		
<b>DTEX-1278</b>	Chart: Knot Pull Results for Start – Middle – End Reels, Batch Number 28893	PR 08469	N/A		



TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1279</b>	Chart: Results at Intermediate Stage for Batch 28893, 2/10/2006	PR 08470	N/A		
<b>DTEX-1280</b>	Chart: Results at Dye Stage for Batch 28893, 1/28/2006	PR 08471	N/A		
<b>DTEX-1281</b>	Chart: Determination of D&C Blue No. 6 in Polyester, 5/11/2003	PR 08472	N/A		
<b>DTEX-1282</b>	Chart: Results for Batch 28893	PR 08473	N/A		
<b>DTEX-1285</b>	Printout of DePuy Mitek Website	N/A	N/A		
<b>DTEX-1286</b>	Printout of Ethicon Website	N/A	N/A		
<b>DTEX-1287</b>	Printout of Johnson and Johnson Website	N/A	N/A		
<b>DTEX-1288</b>	Printout of Arthrex Website	N/A	N/A		
<b>DTEX-1289</b>	Printout of Pearsalls Website	N/A	N/A		
<b>DTEX-1290</b>	Printout of CETR Website	N/A	N/A		
<b>DTEX-1291</b>	Physical exhibit - Sample of Teleflex Medical Force Fiber suture	N/A	N/A	401-403 Irrelevant to infringement.	
<b>DTEX-1292</b>	Physical exhibit - Sample of Opus Medical Magnum Force suture	N/A	N/A	401-403 Irrelevant to infringement.	
<b>DTEX-1293</b>	Physical exhibit - Sample of Arthrotek MaxBraid suture	N/A	N/A	401-403 Irrelevant to infringement.	
<b>DTEX-1294</b>	Physical exhibit - Sample of Linvatec Herculine suture	N/A	N/A	401-403 Irrelevant to infringement.	
<b>DTEX-1295</b>	Physical exhibit - Sample of Smith & Nephew UltraBraid suture	N/A	N/A	401-403 Irrelevant to infringement.	
<b>DTEX-1296</b>	Physical exhibit - Sample of Orthocord suture	N/A	N/A		
<b>DTEX-1297</b>	Physical exhibit - Sample of Ethibond suture	N/A	N/A		
<b>DTEX-1298</b>	Physical exhibit - Sample of Tevdek suture	N/A	N/A		
<b>DTEX-1303</b>	Physical exhibit - AR-1902S - Corkscrew II suture anchor and two #2 braided suture	N/A	N/A		

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1304</b>	Physical exhibit - AR - 1902SF - Corkscrew II suture anchor and two #2 FiberWire suture	N/A	N/A		
<b>DTEX-1305</b>	Claim Charts and Various other Demonstrative Exhibits	TBD	TBD		
<b>DTEX-1306</b>	Responsive Expert Report of Dr. Debi Prasad Mukherjee Concerning Non-Infringement of U. S. Patent No. 5,314,446 And Other Matters; Attached are Exhibits 1-34 (03/24/2006)	N/A	N/A	401-403 802 901 Objection to expert report; objection to certain exhibits: Deposition testimony – hearsay; Other suture patents – irrelevant Documents on Panacryl suture/Orthocord suture/Silkworm – not relevant to infringement issue	
<b>DTEX-1307</b>	Supplemental Test Report on Comparative Suture Testing, June 28, 2007, Norm Gitis	N/A	N/A	401-403 802 901 Mitek Motion in Limine#1	
<b>DTEX-1308</b>	“Comparative Suture Testing”, March 23, 2006, by Norm Gitis	N/A	N/A	401-403 802 901 Mitek Motion in Limine#1.	
<b>DTEX-1309</b>	Arthrex’s Expert Report of Robert T. Burks, M.D.; (03/24/2006)	N/A			

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1310</b>	Arthrex's Expert Report of John F. Witherspoon With Respect To Issues Of Infringement; (3/24/2006)	N/A	N/A	401-403 802 Opinion regarding infringement and discussion of law improper and irrelevant; see Mitek Motion in Limine #4; opinions on issues other than infringement irrelevant	
<b>DTEX-1312</b>	Rebuttal Expert Report of Dr. David Brookstein, 4/13/2006				
<b>DTEX-1313</b>	Amended Supplemental Expert Report of Dr. David Brookstein, 7/24/06				
<b>DTEX-1314</b>	Center for Tribology, Inc. Document entitled Comparative Suture Testing		Deposition of David Brookstein (7/27/06) Exhibit #212	401-403 802 401-403 802 901 Mitek Motion in Limine #1.	
<b>DTEX-1315</b>	DePuy Mitek's Responses to Arthrex's First Set of Interrogatories, 04/04/2005			Object to parts under 401-403 Interrogatories 3-11, 13-17 ot relevant to issue of FiberWire infringement	
<b>DTEX-1316</b>	DePuyMitek's Supplemental Responses to Arthrex's First Set of Interrogatories, 07/01/2005			Object to parts under 401-403 Interrogatories 6, 10, 11, 13, 14, 15, 16, 17 not relevant to issue of FiberWire infringement	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1317</b>	DePuy Mitek's Responses to Arthrex's Second Set of Interrogatories, 07/20/2005			Object to parts under 401-403 Court construed the term/ Mitek's contentions not relevant	
<b>DTEX-1318</b>	DePuy Mitek's Responses to Arthrex's Third Set of Interrogatories, 11/28/2005			401-403 Int. 20 not relevant to infringement by FiberWire	
<b>DTEX-1319</b>	DePuy Mitek's Second Supplemental Responses to Arthrex's First Set of Interrogatories, 12/05/2005			Object to parts under 401-403	
<b>DTEX-1320</b>	DePuy Mitek's Second Supplemental Responses to Arthrex's Interrogatory No. 15, 12/20/2005			401-403 Int. 15 not relevant to infringement by FiberWire	
<b>DTEX-1321</b>	Chart of sutures		DePuy Mitek's Deposition Exhibit # 234		
<b>DTEX-1322</b>	Sample of Fiberwire suture [Physical]	N/A		403, 901 Not produced during discovery	
<b>DTEX-1323</b>	Sample of Fiberwire suture (uncoated) [Physical]	N/A		403, 901 Not produced during discovery	
<b>DTEX-1324</b>	Design Verification	ARM 02431 - 2668	Depuy Mitek Deposition Exhibit # 139	401-403 802	
<b>DTEX-1325</b>	Design Validation	ARM 02669 - 2763	Depuy Mitek Deposition Exhibit # 140	401-403 802	
<b>DTEX-1330</b>	Pearsalls Batch Reports	PR 01711 – PR 06186 (with gaps)			
<b>DTEX-1331</b>	Flow Chart labeled "Production Process" (undated)	RK 01698	Depuy Mitek Deposition Exhibit # 182	Duplicate.	

<b>TEX #</b>	<b>Description</b>	<b>Bates Range</b>	<b>Previously Used</b>	<b>Objections</b>	<b>In/Out</b>
<b>DTEX-1332</b>	3/7/2006, S. Tamburo e-mail string to N. Gitis (cc C. Saber, D. Mukherjee) regarding Suture Testing at CETR	CETR 0038 – 0041; 0090 - 0091	Depuy Mitek Deposition Exhibit # 387	802	
<b>DTEX-1333</b>	11/20/1987 – 11/20/1989, Index – DT185, page from a notebook [described as P.7977 in Exh, No. 161]	PR 08398	Depuy Mitek Deposition Exhibit # 228	401-403 Document related to nonsuture products, unrelated to infringement.	
<b>DTEX-1334</b>	9/19/1989- Kryston Silkworm, page 8052 from Exh. No. 161, notebook page	PR08399	Depuy Mitek Deposition Exhibit # 229	401-403 Document related to nonsuture products, unrelated to infringement.	
<b>DTEX-1335</b>	1/14/1991, Pearsall Sutures Product Specification for the Kryston Silkworm (91)	PR08400	Depuy Mitek Deposition Exhibit # 230	401-403 Document related to nonsuture products, unrelated to infringement.	
<b>DTEX-1336</b>	1/14/1991, Pearsalls Sutures, production specification for Kryston Silkworm 10 lbs.	PR 08401	Depuy Mitek Deposition Exhibit # 344	401-403 Document related to nonsuture products, unrelated to infringement.	
<b>DTEX-1337</b>	1/22/1991, Pearsalls Sutures, production specification for Kryston Silkworm 151b knot strength	PR 08402	Depuy Mitek Deposition Exhibit # 345	401-403 Document related to nonsuture products, unrelated to infringement.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1338</b>	1/22/1991, Pearsalls Sutures, production specification for Kryston Silkworm 251b knot strength	PR 08403	Depuy Mitek Deposition Exhibit # 346	401-403 Document related to nonsuture products, unrelated to infringement.	
<b>DTEX-1339</b>	Advertisement placed by Kryston for the Silkworm and Merlin fishing lines [undated]	PR 08404 - 08505	Depuy Mitek Deposition Exhibit # 347	401-403 802 Third-party hearsay document, lacking foundation, relates to nonsuture products, unrelated to infringement.	
<b>DTEX-1340</b>	4/20/1990, Stephen J. Wills facsimile to Genoa Engineering (John Jones) attaching Dyneema SK60 Polyethylene fibre brochure [attachment lacking]	PR 08406	Depuy Mitek Deposition Exhibit # 348	401-403, 802, 901 Document relates to nonsuture products, unrelated to infringement. Document lacks foundation, hearsay.	
<b>DTEX-1341</b>	2/19/1991, Steve Crandall (Ashaway Line & Twine Mfg. Co.) facsimile to S. Wills (Pearsalls) regarding a lower price on X-613 [bears marginalia]	PR 08407	Depuy Mitek Deposition Exhibit # 349	401-403, 802 Third-party hearsay document, lacking foundation, relates to nonsuture products, unrelated to infringement.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1342</b>	4/23/1990, S. Wills facsimile to John Jones attaching a table of fibre projections	PR 08408 - 08409	Depuy Mitek Deposition Exhibit # 350	401-403, 802, 901 Document relates to nonsuture products, unrelated to infringement. Document lacks foundation, hearsay.	
<b>DTEX-1343</b>	1/4/1990, Pearsalls analysis of Kevin Nash Gama Braid manufactured by Braided International Lines	PR 08410	Depuy Mitek Deposition Exhibit # 351	401-403, 802, 901 Document relates to nonsuture products, unrelated to infringement. Document lacks foundation, hearsay.	
<b>DTEX-1344</b>	2/19/1990, Stephen Wills internal memo regarding fishing line products, Kryston price list dated 7/23/1990	PR 08411 - 08413	Depuy Mitek Deposition Exhibit # 352	401-403, 802, 901 Document relates to nonsuture products, unrelated to infringement. Document is hearsay, lacks foundation.	
<b>DTEX-1345</b>	7/14/1993, Pearsalls invoices (3) to Kryston for Silkworm, Multistrand, Siuper Silk	PR 08430 – 08432	Depuy Mitek Deposition Exhibit # 353	401-403 Document relates to nonsuture products, unrelated to infringement.	

TEX #	Description	Bates Range	Previously Used	Objections	In/Out
<b>DTEX-1346</b>	4/18/1989, Minutes of meeting with Cyanamid GB Ltd. [redacted]	PR 08392 – 08393	Depuy Mitek Deposition Exhibit # 354	401-403 Document relates to nonsuture products, unrelated to infringement. Arthrex refused to produce the portion of the document “redacted due to relevancy.”	
<b>DTEX-1347</b>	3/23/1990, copies of pictures from magazines featuring fisherman holding large fishes caught with Kryston fishing line	PR 08414 – 00819	Depuy Mitek Deposition Exhibit # 355	401-403 802 Third-party hearsay document, lacking foundation, relates to nonsuture products, unrelated to infringement.	
<b>DTEX-1348</b>	Exclusive Manufacturing Agreement between Arthrex and Pearsalls, 5/9/2002	ARM 001696 – ARM 001698			
<b>DTEX-1349</b>	Expert Report of Dr. David Brookstein with attached exhibits, 3/3/06	N/A			

Note: Defendants reserve the right to amend this list of trial exhibits and to use trial exhibits included on DePuy Mitek's list. Demonstrative exhibits, summary exhibits, blow-ups and the like will be exchanged by the parties closer to trial.